

## The New England groundfish debacle (Part III): who or what is at fault?

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*"We received a letter last month from 173 fishermen across New England who were pleading for help,"* (Massachusetts Congressman Stephen Lynch, who is now running for Secretary John Kerry's Senate seat) *Lynch said. "These are hard-working people and their industry is being pushed to the brink by an overzealous environmental agenda that too often ignores the human cost of its actions."* (R. Gaines, Senate candidate *Lynch backs fish law 'flexibility,'* Gloucester Daily Times, 03/15/2013, <http://tinyurl.com/cno4dn4>)

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It took me a while to decide how to most accurately describe the situation that has been visited upon the New England fishing communities that are and since colonial times have been dependent on the groundfish fisheries. I finally settled on "*debacle*" because it means about the same thing as "*fiasco*" but with a heap more gravitas. And I can only think of what's going on, and what has been allowed to go on, in that fishery as a fiasco on steroids.

An awful lot has been written – and said – recently about New England groundfish but no one appears to have tied it all up into a neat and coherent package. Not being directly involved in the fishery or its management, and being at least twelve hundred miles removed from it, I'm going to try to do that from the position of semi-objectivity that separation allows.

First off, no analysis would be complete without recognition of the role that now departed NOAA head Jane Lubchenco and her minions played in worsening an already dismal situation. Her self-congratulatory going away present to us all was a listing of the notable triumphs in her almost four year reign in which several fisheries "successes" were detailed yet the New England groundfish fishery got nary a mention. She was on the record numerous times stating that one of her goals was to reduce the size of the New England groundfish fleet. So far it appears as if she's succeeding spectacularly. From her and her anti-fishing ENGO colleagues' perspective that would seem to be a major success, but probably one that not even they would be willing to brag about.

Given this, what were the chances that her agency would have initiated any actions resulting in more fish for the fishermen, keeping more boats fishing and more fishermen employed? That surely didn't and doesn't fit into her master plan (see my 2009 Fishnet *Chronic underfishing – the real New England groundfish crisis* at <http://tinyurl.com/a7t2gre>).

As demonstrated in her going away missive, faulty information seemed to be a mainstay of her tenure at NOAA. Below are excerpts from testimony she presented to a U.S. Senate Committee in Boston on October 3, 2011 on the New England groundfish fishery – see <http://tinyurl.com/bo37hre>. Bear in mind that she was speaking then of a fishery that at this point appears as if it will be virtually shut down less than two years later. Among her almost six thousand words were these gems:

- *We are making gains across the country as individual fisheries have recovered, which will increase as we finally bring an end to overfishing.*
- *We are seeing benefits from the transition to sector management as catches do not exceed the annual catch limits, and fishing becomes more efficient and flexible, all of which contribute to the common goal of ecological and economic sustainability of groundfish stocks.*
- *Decades of overfishing, failing fish stocks and punishing regulations interacted to threaten the region's most iconic industry. That system was not working for fishermen. It was driving them out of business and the stocks were not rebuilding to a point where they could sustain a profitable industry.*
- *The adoption of this new management system and the lower catch limits happened early in my tenure as Administrator. Indeed, sustaining the groundfish fishery and the economic health of the industry has been of paramount importance to me since my first day in office.*
- *Our goals are clear: to be a partner in the success of fishermen, to sustain fishing jobs, to create a profitable and healthy future for fishing communities, and to maintain marine fisheries.*
- *How are we doing after one year with new catch limits and with the expanded sector management program? We see both signs of progress and continued room for improvement.*
- *Stocks are being rebuilt and therefore catch limits are up. Due to the rebuilding progress already underway, in the 2011 fishing year, catch levels have gone up for 12 of the 20 groundfish stocks, which is another indication the Magnuson-Stevens Act and associated management measures are working to improve the status of the stocks and the economics of the fishery.*

But the full blame for the deplorable situation that now exists in New England's fishing communities can't be laid entirely at her feet, though she unnecessarily exacerbated it. The blame belongs to the engineered interplay of just about everything that's wrong with the way our federal fisheries are managed. Take the above statements. Assuming that they accurately represented the "best available science" at the time, an understandable assumption considering that they were delivered to a Senate Committee by an Undersecretary of the U.S. Department of Commerce, the people who ran the businesses that caught, processed, bought and sold those fish, and the people who ran the businesses that allowed them to do that, made plans based on what Ms. Lubchenco said – and what she didn't say. She definitely didn't say or intimate that the groundfish fishery would be closed down in a year and a half. She didn't say or intimate that it might be closed down in a year and a half. She didn't even say or intimate that it could be closed down in a year and a half. With businesses depending in whole or in part on the New England groundfish fishery, a lot of people planned accordingly.

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*"This lack of adequate progress was not due to any failure on the part of the New England Fishery Management Council to take necessary action to meet the requirements of the Magnuson-Stevens Act, nor was it due to any failure on the part of fishery participants to act in compliance with applicable regulatory measures. Rather, the lack of adequate progress is due to a new and significantly revised understanding of the condition of the stock since the 2008 assessment was completed."* Sam Rauch, NOAA/NMFS Acting Assistant Administrator for Fisheries, in a January 26, 2012 letter to the New England Fisheries Management Council (<http://tinyurl.com/brswkvz>).

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A year and a half later... oops! NOAA/NMFS now has "better" information, and your plans are all out the window. So are your customers, your income and a large part of your life.

The NOAA/NMFS response has been that, in spite of the fact that the fishery, the businesses that depend on it and the traditional character of New England's fishing communities are to be the victims of scientific shortcomings and bureaucratic ineptitude, nothing can be done about the pending closure of the fishery – or the reductions in harvest that will close most of the fishermen out of the fishery – because it is what the federal law demands.

Ignoring the argument that NOAA/NMFS is interpreting the provisions of the Magnuson Act in far too restrictive a manner, how did this unacceptable situation develop, or more exactly, how was it made to develop? Like so many other fisheries issues, there isn't one simple answer but rather a complex of overlapping legislative and bureaucratic factors that seem to have been designed to destroy our traditional domestic fisheries in general and the traditional New England groundfish fishery in particular.

### **How did we get here?**

Have no doubts about where the blame for this unnecessary debacle lies. In 2006 a mostly clueless and misled U.S. Congress ignored the advice of large segments of the domestic recreational and commercial fishing industries and passed, and President Bush subsequently signed into law, the so-called Sustainable Fisheries Act. This package of amendments to the Magnuson-Stevens Fisheries Conservation and Management Act (MSFCMA) was designed by a handful of mega-foundation supported ENGOs (and a few "fishing" associations that appeared to have been co-opted with those foundation \$millions) to remove the flexibility from the Act that was such an important part of the federal fisheries management process it established in 1976.

What was the purpose of this flexibility? At the time, Members of Congress realized that the fisheries scientists didn't have all of the answers, that fishermen had acquired a wealth of so-called anecdotal information about marine fish and the ocean environment that could and should supplement what the scientists understood, and that a truly effective fisheries management process would require input from both scientists and fishermen. What was considered one of the most significant portions of the Act, the role in management given to fishermen, was designed expressly to avoid situations such as the one that is now threatening New England's fishing communities.

Decades later, when a handful of mega-foundations led by the Pew Charitable Trusts decided that they were going to save the world's – or at least the United States' – oceans from the threats of fishing (and apparently decided to ignore, and convince the public and the pols to also ignore, any other impacts), the fishermen and their "subjective" input had to be removed from the process because collectively they were the only people who had a fairly accurate idea of what was going on in the waters they fished. Of course this would leave the scientists with their inadequate science in charge, and conveniently there was a concurrent drying up of government research money, making a bunch of marine scientists who were so predisposed that much easier for the ENGOs to buy.

The Sustainable Fisheries Act in 2006 was the culmination of this campaign. It established hard and fast requirements for fisheries management that relied on science, statistics and computer models – and on scientists, statisticians and computer modelers – that were in no ways equal to the task. It also made the precautionary principle (see *NOAA Inaction in the Gulf of Mexico* at [http://www.fishnet-usa.com/NOAA\\_Inaction.htm](http://www.fishnet-usa.com/NOAA_Inaction.htm)) the bedrock of the fishery management process and at the same time established "rebuilding schedules" for fish stocks to reach a level where they weren't overfished of definite duration regardless of the impacts of those schedules on the fishermen and on the businesses that depended on them.

So, as a result of an extended campaign by these multi-billion dollar foundations and the ENGOs and fishing groups in their thrall, we now have a management system which is based entirely on what the science and the statistics, as imprecise as they are, dictate, where a wealth of fishermen's hard earned on-the-water knowledge has been made completely irrelevant to the process, and where the supposed welfare of the fish counts for infinitely more than the welfare of the fishermen.

Needless to say we still have nowhere near the knowledge necessary for a rational decision making process (see <http://tinyurl.com/bq6apcd>).

In New England if the groundfish fleet were given another year or two of continued harvesting at levels low enough to allow for stock rebuilding – if that is even possible (this question will be explored in depth in the next FishNet) – the critical questions regarding the science underlying the assumed well-being of the groundfish stocks could be answered, the affected busi-

nesses could make whatever adjustments were possible, and the looming crisis could be either avoided or its impacts could be significantly lessened. That's the upside.

The downside? The time it took a few fish stocks to reach an arbitrarily determined population level would be extended by a year or two.

This is in fact what the New England Council recommended be done in requesting that a soon to expire Emergency Action declared by the Secretary of Commerce be extended for another year. On the advice of NOAA General Council Lois Schiffer, John Bullard, the NMFS Northeast Regional Administrator, refused, claiming that the Magnuson Act as amended in 2006 precluded doing that.

Because of this, because of overly rigid Magnuson requirements that are opposed by a large number of fishermen and other businessmen dependent on them and a growing number of Congressmen, Congresswomen and Senators from coastal states, and because of the lobbying ability and the PR expenditures of a handful of "charitable" foundations and the ENGOs they control, the New England groundfish fishery is teetering on the edge of disaster.

In summation, the fishing industry was fishing as it was told to fish by the New England Fishery Management Council and NOAA/NMFS. This was based on the "best scientific information" available at the time and according to that information the stocks were well on their way to recovery. All of the businesses dependent on the fishery planned accordingly.

Subsequently NOAA/NMFS decided that what was at the time the best scientific information wasn't the best any longer because there was better information available and that, according to that better information, fishing effort had to be reduced to such an extent that large parts of the groundfish industry would be put out of business. The Council sought to lessen the damage by extending "emergency" mitigation measures for a year. NOAA/NMFS, with the enthusiastic encouragement of the ENGOs, refused. Based on extensive analyses – easily "the best available" - the Council is also seeking to reopen areas which had been previously closed to fishing. This would also lessen the impacts somewhat. The ENGOs are mounting an all-out PR campaign to prevent this. Predictably, the ENGOs who are always willing to use the best available science when it advances their anti-fishing agenda, are more than willing to bypass it when it doesn't, falling back on lobbying and misleading PR.\*

The people in Washington knew what they were doing back in 1976 when the Magnuson Act became law. It's unfortunate but understandable that back then they had no idea that so-called environmentalists with the backing of multi-billion dollar foundations would be more of a threat to domestic fishermen than the foreign fishing fleets ever were.

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\*In the latest display of their antipathy towards fishermen and fishing – which is unconvincingly camouflaged as concern for the long-term health of the fisheries and the oceans – the anti-fishing clique has also taken head-on the New England Fisheries Management Council's proposal to open areas that it had closed to fishermen. Their opening would aid the beleaguered New England fishing industry. Rigorous analyses of these closures have demonstrated that they are no longer serving any "conservation" benefit, if the ever were, but a major public relations effort led by the Pew Trusts is ongoing in spite of this. (For more on this latest initiative in the campaign of these "caring" ENGOs to destroy the traditional groundfish fishery see the Saving Seafood (<http://www://savingseafood.com/>) analyses *Pew Environment targets John Bullard in online petition drive against NEFMC proposed changes to closed areas* at <http://tinyurl.com/d5ef2bb> and *Pew Environment Group Misleads Public on Habitat Closed Area Changes* at <http://tinyurl.com/d4etqkt>