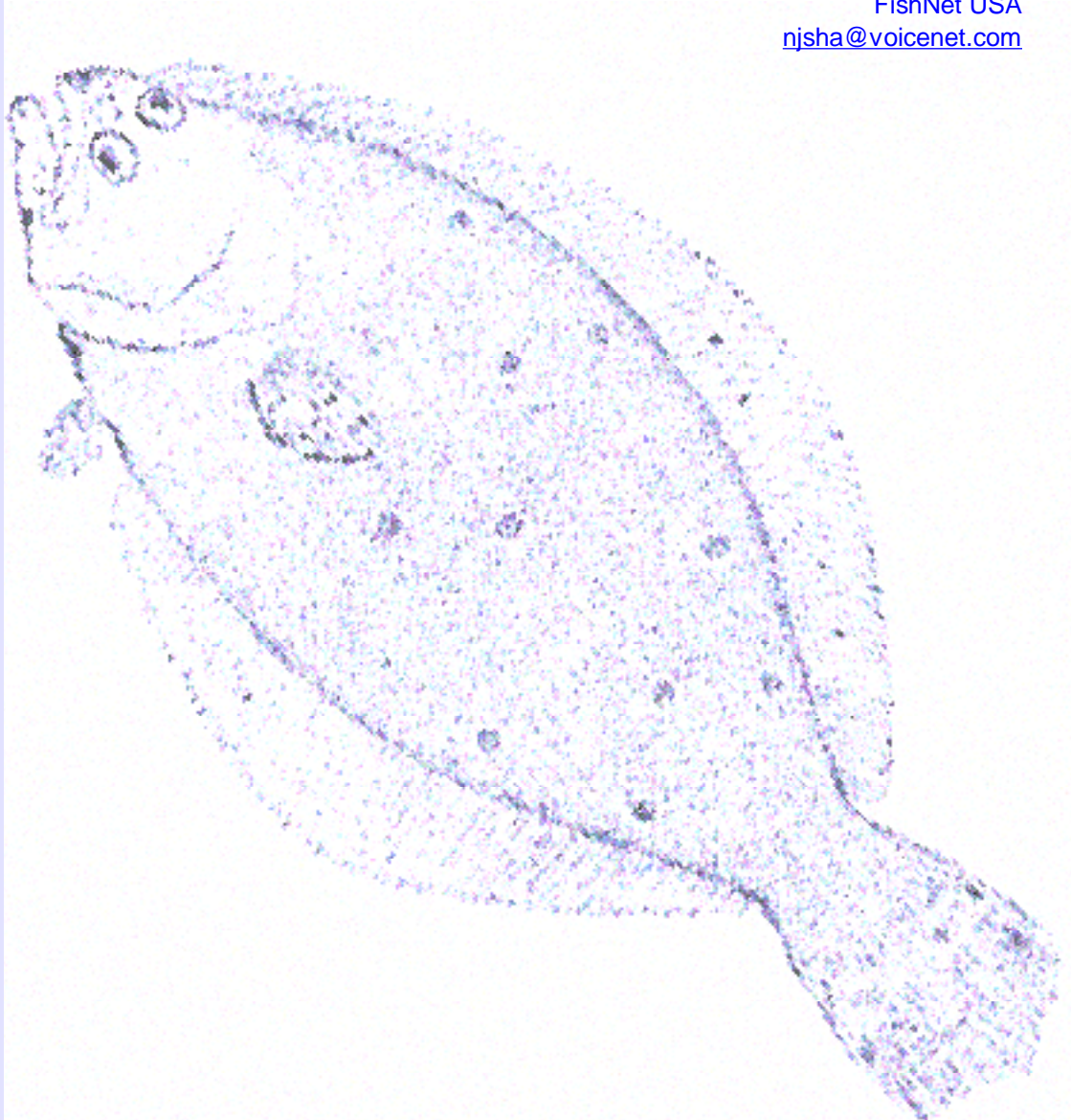


"In a tape obtained by Ryan Sager of the New York Post — who broke the story — Mr. (Sean) Treglia (a former program officer at the Pew Charitable Trusts) was heard to admit that his foundation's lavish support of such groups as Common Cause and the Center for Public Integrity was designed to convince Congress that there was widespread public demand for campaign-finance reform when, in fact, there wasn't." (M. Wooster, **Too good to be true**, Wall Street Journal, 04/01/06)

Flexibility and effective management

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Instead of saying 'sorry, our mistake,' and instituting further cutbacks in fishing that would allow the stock to continue to rebuild while at the same time maintaining the economic viability of all those businesses dependent on the commercial and recreational fisheries, NMFS is proposing to virtually shut them down (this in spite of the fact that, thanks to the sacrifices of and compliance by both the recreational and commercial fishing sectors, the current management program has been startlingly successful).

August 29, 2006

Summary

Inflexible fisheries management regulations are unnecessarily inflicting significant – and in some instances debilitating – economic damages on recreational and commercial fishing businesses and on the communities that they support. So-called conservation organizations are lobbying for even stricter reliance on specific management targets achieved within specific time frames. To them neither the fact that the existing science won't support such inflexibility nor that whether a fish stock is "rebuilt" in ten years or fifteen is irrelevant to anyone other than the fishermen who would be able to stay in business with the longer rebuilding period is relevant. We examine the impact that scientific imprecision coupled with regulatory inflexibility is having on summer flounder, which support one of the mid-Atlantic's most important fisheries. We look at the supposed "grass roots" efforts aimed at removing human judgment from management actions, and at the character and funding of the organizations that are taking the lead.

In *The Oil Slick* we recount a controversy regarding the Pew Charitable Trusts' and other foundations' support of campaign finance reform in light of the current situation regarding "lobbying" for increased inflexibility in the Magnuson-Stevens Act.

Reauthorization of the Magnuson-Stevens Act

With final deliberations on the reauthorization of the Magnuson-Stevens Act postponed until September, this is an opportune time to clear up some of the deliberate misunderstandings that have been made part and parcel of this process.

The original legislation, introduced by Senator Warren Magnuson, became law back in 1976 with all of the good intentions in the world; to remove mostly unregulated foreign fishing from the United States' coastal waters and replace it with managed domestic effort. After thirty years, that legislation, now known as the Magnuson-Stevens Act, has been forced through a series of Jekyll and Hyde-like transformations that have turned it into the largest immediate threat facing U.S. fishermen.

To a very large extent this has been done through the expenditure of vast amounts of (so-called) charitable foundation dollars, most derived from "Big Oil." These dollars have been used to fund questionable research, buy mass media exposure, and influence federal administrators and legislators. These expenditures have amounted to hundreds of millions of dollars over the last ten or so years, and it appears as if this massive investment is on the verge of paying off, with participants in many of our most important fisheries fast approaching or at the point of financial ruin.

Why? That's an impossible question for anyone other than the people who sign those million dollar checks to answer, and we wouldn't venture a guess. But we will devote this and the next FishNet to an exploration of where recreational and commercial fishermen are today relative to fisheries management (or, as an increasing number of them would say, mismanagement) and how they've gotten there, supplying some helpful illustrations along the way.

Summer flounder – an example of how bad it's gotten

The summer flounder stock supports one of the most important fisheries in the mid-Atlantic region. Commercial landings were valued at \$28 million in 2004, meaning the fishery generated well over \$100 million in economic activity. The recreational fishery is a mainstay of the party/charter boat fleet, and summer

flounder are the preferred species for the majority of recreational anglers in the region.

Over a decade ago fisheries scientists determined summer flounder weren't doing as well as they could have been. In light of this, stringent management measures were put in place. Both recreational and commercial fishermen adapted, accepting larger minimum sizes, abbreviated fishing seasons and decreased possession limits. Over a period of several years both the commercial and recreational harvests were reduced by well over 50%. Predictably, the stock responded positively. The management restrictions have been eased slightly and the harvest by both sectors has been inching up. This is the way fisheries management is supposed to work: fishermen, whether recreational or commercial, "tighten their belts," the management measures work and the fishermen are rewarded for their sacrifices.

At a technical meeting held this past June, it was found that in spite of all of the fishing restrictions, the summer flounder population wasn't increasing quickly enough. Though the biomass, now estimated to be at 104 million pounds, had doubled, it was still less than it should have been according to an optimum stock rebuilding schedule that had been reformulated in 2004.

So, what's the big deal? Were the fisheries management world one that was based on rationality and reasonable expectations for both the fish and the many people and businesses that depend on them, a simple fix allowing for the continuing recovery of the fish and the continued viability of the recreational and commercial fisheries would be instituted. Fishing effort would be reduced slightly, the summer flounder stock might reach its supposedly preordained level somewhat later, shore restaurants would keep ocean-fresh summer flounder on their menus, bait and tackle shops would keep selling bait and tackle to one of their largest groups of customers, the dozens of party and charter boats that specialize in summer flounder would be able to stay in business, and the commercial boats and docks and other on-shore businesses that depend on summer flounder for a large part of their annual business wouldn't lose a major part of yet another one of their major fisheries. That seems like a pretty good deal for everyone concerned, perhaps approaching the status of one of those "win-win" situations.

Unfortunately – or perhaps tragically is a more accurate term – as things stand today that isn't likely to happen.

The Sustainable Fisheries Act is the culprit

When the Magnuson-Stevens Act was last reauthorized through the provisions of the Sustainable Fisheries Act (SFA), the anti-fishing community – with the support of a few fishing groups representing an almost negligible number of recreational and commercial fishermen – successfully lobbied for a strict ten year "rebuilding" period for all species that were determined to be "overfished." In every fishery where there's not enough fish (according to what we can only refer to, considering the lack of solid information on any fishery, as an arbitrary determination), fishing effort has to be reduced to such an extent that the stock will be rebuilt to the desired level within ten years.

Management plans controlling fisheries that are deemed "overfished" contain what are called rebuilding targets. These are levels of the managed species that, when attained, mean that the fishery can be harvested at what is called the maximum sustainable yield (MSY). In other words, at that level the fishery will produce the maximum level of harvest, year after year ad infinitum. Two years ago that biomass level was reduced to 204 million pounds for summer flounder, a calculated "pie in the

sky” level that was so high that it had never been observed by fisheries scientists. When the target biomass level was reduced, the permissible catch to reach that smaller biomass level was reduced as well. Then, at the June meeting referred to above, (the results of which are available at <http://www.nefsc.noaa.gov/nefsc/publications/crd/crd0617/>), it was discovered that some of the previous assumptions of the summer flounder management program were faulty, and in hindsight the cuts of the previous years, though very significant, weren't anywhere near adequate.

Accordingly, to be in conformance with the required rebuilding schedule and to have the required biomass by the expiration of the ten year “rebuilding” period, even more drastic cuts in fishing effort are now called for. The National Marine Fisheries Service is pressing for a reduction in the allowable catch by about 75% next year. The current quota (commercial and recreational) is 23.6 million pounds and NMFS, to meet the requirements of the Sustainable Fisheries Act and to compensate for changes in the statistics that are used to control the fishery (the less-than-sympathetic might refer to these changes as attempts to correct that agency's past mistakes), is pushing for 5.2 million pounds.

While this is all somewhat complicated, it can be summarized fairly succinctly: 1) the recreational and commercial summer flounder fishermen adhered to the rules established for them through the management program, 2) the fisheries management establishment discovered that it had messed up (not too surprisingly, considering the state of the science involved) and that the rules it had put in place weren't stringent enough, so they changed them, and 3) the change in the rules, coupled with the designed-in inflexibility of the SFA, means that both the commercial and recreational fisheries stand a good chance of being for all intents and purposes closed down.

Thanks for playing by the rules

Instead of saying “sorry, our mistake,” and instituting further cutbacks in fishing that would allow the stock to continue to rebuild while at the same time maintaining the economic viability of all those businesses dependent on the commercial and recreational fisheries, NMFS is proposing to virtually shut them down (this in spite of the fact that, thanks to the sacrifices of and compliance by both the recreational and commercial fishing sectors, the current management program has been startlingly successful).

Summer flounder the first, but there are more to come

While the situation with summer flounder in the mid-Atlantic is among the most immediate and most visible of the results of the inflexibility that was injected into the Magnuson-Stevens Act in 1996, it certainly isn't unique. Fishery after fishery is going to be in the same place, in spite of the best efforts of the fisheries scientists, the fisheries managers, and the fishermen, because thanks to the Sustainable Fisheries Act, the best isn't necessarily good enough.

Recognizing the inevitable results of the Sustainable Fisheries Act, commercial and recreational fishing organizations have been lobbying in Washington to amend Magnuson-Stevens to once again allow for the careful application of subjective judgment in management decisions when its application can serve both the fish and the fishermen. Some of the same anti-fishing groups and individuals, bankrolled by the same organizations, that were so intent on removing what they professed to consider loopholes in Magnuson-Stevens via the Sustainable Fisheries Act in 1976, have mounted a campaign to counter this drive.

Two organizations that have been most active in opposing any attempts to bring a modicum of reasonableness back to federal fisheries management are the Marine Fish Conservation Network and the National Environmental Trust. Together they ran an ad in the Washington Times last month stating that H.R. 5018, a bill introduced by Congressmen Pombo, Franks and Young that amends the Magnuson-Stevens Act and is supported by many commercial and recreational fishing groups, “contains loopholes that will increase overfishing.” The rhetoric is familiar, in line with that regularly used by a handful of so-called conservation organizations.

Not grass, but astroturf

It would be easy to assume that these “conservation” organizations are, as such organizations tend to be, “grass roots;” membership supported and membership driven. However, this doesn't appear to be the case. The National Environmental Trust has received over \$37 million from the Pew Charitable Trusts, and the Marine Fish Conservation Network has received \$2 million from Pew. Good for them, you might say, but what's that have to do with legislative loopholes that need to be plugged? According to the blurb from the Washington Times ad, the Marine Fish Conservation Network is “made up of over 190 organizations representing commercial and recreational fishermen, environmental groups, and aquariums from across the country.” That sounds like it's “grass roots,” doesn't it? Particularly considering that commercial fishermen are listed at the front of the list, we decided to delve a little more deeply into just which commercial fishermen, and other folks, this “network” represents.

Of the dozen or so organizations that the MFCN lists as members that obviously represent commercial fishing interests, at least half have what appear to be substantial ties with Pew. Pat White, past Executive Director of the Maine Lobstermen's Association, and Pietro Parravano, President of the Pacific Coast Federation of Fishermen's Associations (PCFFA) were both members of the Pew Oceans Commission. The Cape Cod Commercial Hook Fishermen's Association has been funded by Pew. The Institute For Fisheries Research (IFR) is a spin-off of the PCFFA. Salmon For All is a member of the PCFFA and Save Our Wild Salmon Coalition, which has received upwards of \$5 million from Pew. David Hallowell of the Humboldt Fishermen's Marketing Association, is listed as a Board member of the IFR.

Ecofish is considered a commercial member of the MFCN. It's a company involved in selling, according to its website, “only the most sustainable, highest quality, healthiest, all natural, most delicious seafood to our customers.” Ecofish has a six member advisory board that includes Carl Safina (Pew scholar and SeaWeb spokesperson), Matthew Elliot (consultant to Pew Seaweb and the Pew Commission), Rebecca Goldberg (Environmental Defense - recipient of over 3.8 million Pew dollars - staffer and author of the Pew Commission's report on aquaculture), and Heather Tausig (Conservation Director of the New England Aquarium - recipient of 10 million Pew dollars). The other two members, Michael Sutton and George Leonard, work for the Monterey Bay Aquarium, which has a Pew SeaWeb office on site.

Though we aren't certain, some fairly extensive web searching indicated that several of the remaining “commercial” MFCN member organizations (the Abalone and Marine Resources Council and the Florida Fishermen's Federation) might be moribund – or at least have had a negligible web presence for the last couple of years. Two others (Signature Salmon and King and Sons Fishing Company) appear to be businesses that might be involved with commercial fisheries, but these both lack any discoverable web presence as well. So it appears as if the

commercial fishermen that the MFCN lists so prominently could be represented only by organizations that are a part of the Pew "family," or by those whose members' activities are confined to very limited areas/fisheries.

Of the remaining 170+ MFCN member organizations, a listing of those that are significant (i.e. have a national presence and significant political clout) reads like a "who's who" listing of Pew grantees.

Pew largesse to selected Marine Fish Conservation Network members

The National Environmental Trust has received over 37 million Pew dollars

Oceana has received at least 22 million Pew dollars

Earthjustice Legal Defense has received over 20 million Pew dollars

The Public Interest Research Group has received at least 14 million Pew dollars

The New England Aquarium has received over 10 million Pew dollars

The Theodore Roosevelt Conservation Partnership has received at least 8 million Pew dollars

The American Littoral Society has received over 6 million Pew dollars

Audubon has received over 4.6 million Pew dollars

Seaweb has received over 4 million Pew dollars

The Natural Resources Defense Council has received at least 4 million Pew dollars

Restore America's Estuaries has received at least 1.6 million Pew dollars

Conservation Law Foundation has received over 1 million Pew dollars

Sierra Club has received at least 800,000 Pew dollars

Reefkeeper International has received almost ½ million Pew dollars

The Marine Conservation Biology Institute has received over 400,000 Pew dollars

The Wildlife Conservation Society has received over 400,000 Pew dollars

Friends of the Earth has received 300,000 Pew dollars

The Cape Cod Commercial Hook Fishermen's Association has received 250 thousand Pew dollars

The Pacific Marine Conservation Council has received over 200,000 Pew dollars

Alaska Marine Conservation Council has received at least \$150,000 Pew dollars

Save the Sound has received over 100,000 Pew dollars

The Gulf Restoration Network has received over 100,000 Pew dollars

Tampa Baywatch has received over 100,000 Pew dollars

The list goes on and on. The organizations that serve as conduits for Pew dollars that are also members of the MFCN goes on as well. For example, the American Littoral Society has channeled over 6 million Pew dollars to various organizations and programs, including Reefkeepers International, Restore America's Estuaries and the MFCN itself.

The MFCN has about twenty recreational fishing members. It won't surprise anyone to read that there are organizations involved in recreational fishing who actually believe that 1) a fish killed for fun isn't as dead as one killed for profit, 2) that all the fish in the oceans should belong to them because they spend so much to catch them, and 3) that any organization that's out to stick it in the eye of commercial fishermen is worthy of their support. Based on our long observation of and participation of fisheries management, we can safely say that some of the

recreational organizations in the MFCN are among them. The recreational fishing members of the MFCN range from local clubs (Newport County Saltwater Fishing Club), through state organizations (Jersey Coast Anglers Association) to national trade organizations (American Sportfishing Association). Also included are a number of recreational fishing publications (Salt Water Sportsman).

If we consider just one of the recreational fishing groups, how many of the claimed 600,000 recreational fishermen that Jersey Coast Anglers Association is supposed to represent would willingly oppose changes to the Magnuson-Stevens Act if they knew it was going to shut down the summer flounder fishery – their state's most popular - for no fault of any recreational or commercial fishermen? Yet it appears as if that's what the Jersey Coast Anglers Association is doing. How many bait and tackle store owners in the mid-Atlantic would go along with the unnecessary closure of the fishery that accounts for a very large part of their total revenue each year? Yet the American Sportfishing Association, which claims to be representing their interests, is doing just that.

The MFCN's Board of Advisors consists of representatives from the Alaska Marine Conservation Council, Cape Cod Commercial Hook Fishermen's Association, Conservation Law Foundation, Gulf Restoration Network, Hawaii Audubon Society, the International Gamefish Association, Jersey Coast Anglers Association, National Audubon Society, National Coalition for Marine Conservation, National Environmental Trust, Natural Resources Defense Council, Oceana, Pacific Coast Federation of Fishermen's Associations, Pacific Marine Conservation Council, Prairie Rivers Network, SeaWeb, Sierra Club, Ocean Conservancy, and U.S. Public Interest Research Group. Eleven of the nineteen organizations represented have collectively received well over \$75 million from Pew. Of the four organizations that aren't tied directly to Pew by funding or other connections, three are supported by recreational fishing, and two of those three have a demonstrated an anti-commercial fishing bias.

The MFCN's Executive Committee has seven members. The organizations that five of them represent have collectively received over \$60 million from Pew.

The other sponsor of the "overfishing" ad, and an outspoken critic of recreational/commercial fishing organization drive to inject some human judgment back into fisheries management, the National Environmental Trust, is the recipient of \$37 million from Pew.

While it's obvious that we're supposed to believe that all of this "we need more stringency and less flexibility in fisheries management" hyperbole is the message of masses of people from a wide spectrum of organizations, could it be that the Pew Trusts wouldn't be the first instance where Pew was thought to be behind a supposedly "grass roots" initiative (see **The Oil Slick** following for another example). We can't help but wonder if the reaction of Congress to a focused lobbying effort that was the result of strategic grant-giving by a mega-foundation would be different from one that was truly reflective of grass roots interests.

At the same time, we wonder how many recreational and commercial fishing organizations with an honest commitment to the fish and to the future of fishing that aren't a part of an agenda-driven foundation family are actually opposed to extending mandated rebuilding periods in particular fisheries to maintain the viability of the businesses that depend on those fisheries. Recreational and commercial fishermen realize that healthy fish stocks benefit everyone who fishes and fully support

the application of practical conservation measures. They also realize that fisheries science tends to be more imprecise than not, and know that tying those conservation measures too rigidly to imprecise data is a recipe for disaster – whether that disaster is as minor as a lost fishing opportunity or as major as a bankrupt business. The earlier data regarding summer flounder was retrospectively “corrected,” and because the allowable quota is rigidly locked to an inviolate rebuilding schedule, we are now facing a disaster in that fishery that many of the involved businesses won’t survive (and we are compelled to repeat here that, because of development pressures, a closed fishing-related business on the coast won’t be replaced by anything similar). To have a management system that is incapable of recognizing and

allowing for such situations – which are going to occur in fishery after fishery – does nothing for conservation and punishes the fishermen for unavoidable scientific imprecision.

Whether the population is rebuilt in ten years or in more than ten years is of no long term consequence to the summer flounder stock, but it’s of overriding importance to the fishing businesses that depend on the fishery – and on the communities that depend on those businesses. In spite of what a handful of fishing and other Pew-funded organizations claim, granting fisheries managers the flexibility to equitably deal with such situations will have no negative impacts on the long-term viability of our fisheries.

The Oil Slick

Pew, Election Reform and Magnuson-Stevens Reauthorization

“Astroturf Politics - How liberal foundations fooled Congress into passing McCain-Feingold.

If a political gaffe consists of inadvertently revealing the truth, then Sean Treglia, a former program officer for the Philadelphia-based Pew Charitable Trusts, has just ripped the curtain off of the “ ‘good government’ groups that foisted the McCain-Feingold campaign finance bill on the country in 2002. The bill’s restrictions on political speech have the potential for great mischief; just last month a member of the Federal Election Commission warned they could limit the activities of bloggers and other Internet commentators.

What Mr. Treglia revealed in a talk last year at the University of Southern California is that far from representing the efforts of genuine grass-roots activists, the campaign finance reform lobby was controlled and funded by liberal foundations like Pew. In a tape obtained by the New York Post, Mr. Treglia tells his USC audience they are going to hear a story he can reveal only now that campaign finance reform has become law. ‘The target audience for all this [foundation] activity was 535 people in [Congress],’ Mr. Treglia says in his talk. ‘The idea was to create an impression that a mass movement was afoot. That everywhere [Congress] looked, in academic institutions, in the business community, in religious groups, in ethnic groups, everywhere, people were talking about reform.’

The truth was far different. Mr. Treglia admits that campaign-finance supporters had to try to hoodwink Congress because ‘they had lost legitimacy inside Washington because they didn’t have a constituency that would punish Congress if they didn’t vote for reform.’

*So instead, according to Mr. Treglia, liberal reform groups created a Potemkin movement. A study last month by the Political Money Line, a nonpartisan Web site dealing with campaign funding issues, found that of the \$140 million spent to directly promote liberal campaign reform in the last decade, a full \$123 million came from just eight liberal foundations.” (From The Wall Street Journal’s online version, The Opinion Journal, **John Fund on the Trail**, Monday, March 21, 2005, available at <http://www.opinionjournal.com/diary/?id=110006449>).*

Mr. Treglia’s talk, or its interpretation, predictably generated a major controversy. The Capital Research Center, a watchdog group, interviewed Mr. Treglia about it, and he provided the usual “out of context” disclaimers (interview at <http://www.capitalresearch.org/news/news.asp?ID=312>). The Center also has a report on Pew/Mr. Treglia that’s available at <http://www.capitalresearch.org/pubs/pdf/FW0605.pdf>). Eric Heyt at the Pittsburg Tribune-Review covered the issue – and Mr. Treglia’s and Pew’s disclaimers – as well in **Big Bucks Spurred Ban on Soft Money** on 07/03/05 (available at http://www.pittsburghlive.com/x/pittsburghtrib/s_349718.html).

While political reform and McCain-Feingold are not anything we want to discuss in FishNet, the phrase “*far from representing the efforts of genuine grass-roots activists, the campaign finance reform lobby was controlled and funded by liberal foundations like Pew*” seems startlingly akin to the situation regarding fisheries “reform,” particularly regarding the Marine Fish Conservation Network/National Environmental Trust arrangement described previously. And consider as well the functioning of the Pew Oceans Commission and its role in determining national fisheries policy (<http://www.fishingnj.org/netusa23.htm>) and questions a Pew supported “survey” on public attitudes towards marine protected areas (<http://www.fishingnj.org/netusa21.htm>).