

Committee on Resources

Subcommittee on Fisheries Conservation, Wildlife and Oceans

Statement

Before the

House Committee on Resources Subcommittee on Fisheries Conservation, Wildlife and Oceans

Regarding:

H.R.3390, the Atlantic Highly Migratory Species Conservation Act of 1999 and other legislation to prohibit pelagic longline fishing in the Exclusive Economic Zone in the Atlantic Ocean

Testimony presented by:

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February 8, 2000

Washington, DC

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Good morning Mr. Chairman:

My name is Bob Hayes, and I am the General Counsel for the Coastal Conservation Association ("CCA"), The Billfish Foundation ("TBF") and the American Sportfishing Association ("ASA"). This morning I'd like to focus my testimony on three areas. First, I would like to tell you a little about CCA and TBF. Second, I would like to tell you about how some of the policy decisions in HR 3390 were made, and third, I would like to address the particulars of the bill itself.

The Coastal Conservation Association is the leading marine recreational fishing group in the United States. Formed by a small group of sportfishermen in Houston in 1978, CCA has grown to a fifteen-state operation with over 70,000 members. Each of our states operates somewhat independently, focusing on issues in the state that are important to marine recreational fishermen. However, like so much in fisheries management, conservation issues encompass a regional and national perspective; therefore, CCA learned long ago that federal and international fisheries management were just as important to the local marine recreational fishermen as the conservation of the most local fish population.

CCA pursues conservation policies set by our state and national Boards of Directors. These boards are made up of active volunteers concerned about the health of the nation's fisheries. CCA has been active in a number of conservation issues in the last twenty years, including: all of the east and Gulf coast net bans; gamefish status for redfish, speckled trout, tarpon, striped bass, river shad, marlins, spearfish and sailfish; and the reduction of bycatch through the use of closed areas and technology. We have also pushed for the improvement of the management system through the restructuring of state and federal management systems, the elimination of conflicts of interests by decision-makers, and the active involvement of our membership in the management process.

TBF began as a result of a concern by a group of offshore fisherman that scientific emphasis on billfish was inadequate to develop meaningful conservation measures. From its inception TBF has taken the leadership role nationally and internationally in the development of science to recover billfishes. As that science has developed, TBF has expanded its advocacy role to include both domestic and international management of billfishes.

Today, TBF has members from all over the world and works cooperatively with tournaments and other groups interested in the conservation of billfishes. Like CCA, it is a board driven policymaking body that hires professional staff to implement the policy.

The four guiding principles.

Legislation like the kind being proposed can't be developed without some guiding principles. Four have been used by the parties to the MOU that lead to the Saxton and Goss bills under consideration today.

Sound science, not emotion, should be the basis of fishery management decisions.

The National Marine Fisheries Service and The Billfish Foundation developed the underlying science for all of the bills dealing with HMS. Dr. Phil Goodyear, in his published report, found that there were areas of the Gulf of Mexico and the Southeast coast that if closed to longlining would reduce the bycatch of billfishes and small swordfish. The data and conclusions in that study form the basis for the NMFS proposal. It is not suprizing that they are very similar, especially on the East Coast. The bill's unified approach to closing these areas demonstrates the value of sound science.

Longline bycatch is not one of those areas where the science is abundant. Therefore, the bills establish a scientific research program to determine ways to further reduce bycatch in the longline fishery. That scientific analysis will give Congress, fishery managers and the public a better understanding on which to base future decisions.

There has to be a benefit to all parties to make this work.

Not every group will get what it wants when this legislation goes into effect. Deals like this one are extremely complicated because of the diversity of the fishery and the lack of legislative authority to do what needs to be done. The recreational fishing community got into this because we wanted to improve billfishing. To do that, we had to address the single largest source of mortality in US waters --longline bycatch. The longline fishery is extremely complicated. It is managed by the states, the federal government and by an international body. It is not monolithic. There are tuna and swordfish fleets and mixes of the both. They fish year round all over the Atlantic Ocean. Universally, they have said to us that they want to address the same problem we do, but they don't want to go out of business doing it.

The Goss bill tries to balance the interests of the fleet with the interests of the fish that recreational fisherman want to catch, and for the most part, release. The buyout program will clearly benefit the fleet by reducing competition and making the remaining fleet more viable. The closed areas will also benefit the fleet by reducing small swordfish catches and helping them accommodate the new ICCAT rebuilding plan. The closed areas will be a tremendous benefit for recreational anglers. Not only will they improve billfish catches, but also it will improve the catch of mahi mahi and wahoo. In addition it will reduce the conflicts between these gears, which has lead to many of the emotional confrontations with the longline fleet.

The beneficiaries of the bill have to contribute to the cost.

One of the earliest votes taken by CCA, TBF and ASA on the negotiation was whether we as recreational fishermen were willing to pay for some of the buyout of the longline fleet. The vote was unanimous. These groups operate on a principle that we are willing to put our money where our conservation mouths are. There are number of instances in which recreational fisherman have participated in the buy-out of gear and licenses through the contribution of funds. As an example in Louisiana, we supported legislation that placed a surcharge on recreational fishing licenses to provide funds for commercial fishermen impacted by the net ban. In Texas CCA made direct contributions to the state to buy-out bay shrimp licenses. The tackle industry has been making contributions to improve fishing for years through Wallop-Breaux. Putting money up to improve fishing is not new for the recreational sector. We look at resource issues to determine what gains can be made and how those gains will improve recreational fishing. We are not willing to stand back and avoid achieving improvements because someone else is responsible for the damage. We are willing to pay because we are getting a benefit.

The commercial industry is also willing to pay because of the benefit they are getting.

Minimize displacement of the remaining fleet.

Displacement of the remaining longlining fleet--the unintended moving of the fleet from one place to another -has been a concern of all four groups from the beginning of our discussions. We have tried to minimize the impact on other areas of the country. As a result, we decided early on that none of the bought out vessels could be used in any other commercial fishery. We concluded in the Gulf that the closed area had to be designed to allow the existing fleet to remain in place albeit further offshore. We concluded that the buy down of the fleet had to be large enough to ensure that a minimum amount of displacement in the mid-Atlantic would occur. We think the provisions of the Goss bill do that and protect other fisheries and regions from any displacement.

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CCA, TBF and ASA got involved in this issue through the BlueWater Fishermen's Association ("BWFA"). BWFA wanted to explore reducing the bycatch of billfish through closed areas if there were support for a buyout of the smaller vessels in the fleet. We were very interested in this concept. Our Boards met three times on this issue and concluded that the approach taken in the Goss bill was not only the right approach for the resource, it was the only way we could accomplish our basic conservation goals. As a result, they instructed me to enter into negotiations with BWFA and to build a coalition of other like-minded conservation groups. These negotiations led to a Memorandum of Understanding among CCA, BWFA, the American Sportfishing Association and The Billfish Foundation, which was signed in August. The MOU contained many of the principles found in your legislation and formed the basis for the working relationship the participating groups have today. Each of the parties to the MOU still support it, because each of the parties knows this is the only way to get a bill like this one passed.

The bill we support, HR3390, does the following:

1. Permanently closes an area from the North Carolina/South Carolina border to Key West, Florida, to all pelagic longlining.
2. Permanently closes an area off the Gulf coast from Panama City, Florida, to Mobile, Alabama to longlining from January through Labor Day.
3. For five years after enactment, it closes an area in the Gulf from Cape San Blas, Florida to Brownsville, Texas, from Memorial Day to Labor Day from the beach out to at least 500 fathoms.
4. Provides for a three-year research program with the longline fleet to determine ways to further reduce bycatch by longliners. This research will provide the basis for a permanent solution for longline bycatch, not only in the U.S., but in all Atlantic waters. These measures can be implemented at any time by either NMFS or the Congress.
5. Offers to buy all fishing permits from 68 eligible vessels on a willing buyer/willing seller basis. To be eligible, a vessel must receive at least 35% of its income from the permanently closed area.
6. Vessel owners will be compensated by payment for all fishing licenses (federal and state) and for forfeiture by the vessel of its fisheries endorsement. Vessels not documented will be prevented from

being sold into any other commercial fishery.

7. Total cost could approach \$25,000,000. Funding will be through the National Marine Fisheries Service \$15,000,000 if appropriated funds and \$10,000,000 provided by the Federal Financing Back. Funds will be provided only to vessel owners who can document landings and their value. Owners will be paid \$125,000 for their permit packages and an additional payment equal to one year's gross landings value not to exceed a total of \$450,000.

8. The Federal Financing Bank will be repaid with \$10,000,000 split 50/50 between the recreational community and the longline industry.

9. The longline industry will repay its obligation through a surcharge collected at the dealer level. The recreational community will repay its obligation through the issuance of a federal license to vessels fishing for highly migratory species in the closed areas. The bill establishes a system for states to voluntarily elect to pay the debt for their fishermen.

10. The bill will provide that the permits can be obtained at any post office, retail outlet, on the Internet or through a 1-800 number system. The permits will issue to the boat and will not be transferable.

11. Longline vessels will be prevented from reflagging or fishing in any other commercial fishery including state water fisheries.

12. The bill includes requirements for vessel monitoring devices and enhanced observer coverage.

13. The research program will include a special emphasis off the mid-Atlantic in the event of displacement there of existing vessels as a result of the closed area.

The areas chosen for closure are a result of research done by The Billfish Foundation, which identified hot spots for bycatch, and by the swordfish industry which identified areas where small swordfish catches are found. The data used to identify these areas shows that the closures will have a number of positive impacts on bycatch. The preliminary estimates are that the closures will reduce U.S. longline bycatch in the EEZ by 47% for sails, 32% for blue marlin and 13% for whites. In addition, they will have a positive impact on the bycatch of sharks, tunas, small swordfish, mahi mahi, wahoo and other species. The legislation will reduce the U.S. swordfish fleet by about one-third. Since these vessels also fish in other domestic fisheries from which they will be precluded, the buyout will have some positive impact on the red snapper, shark, grouper and mahi mahi fisheries.

Internationally, it will set a precedent allowing the U.S. to negotiate the international closing of open-ocean bycatch hotspots and small swordfish areas. These closures will further assist in reducing the international fleet exploitation of billfishes.

ASA, TBF and CCA have been praised and maligned for their efforts. Most of the criticism has been from groups that do not understand the legislation or are looking for solutions that are not attainable. I would like to address some of those criticisms.

"There is no conservation benefit." Approximately 52 percent of the total small swordfish bycatch reported by US pelagic longline fishermen in the US EEZ occurs in the three proposed closed areas. Similarly,

approximately 31 percent of the total billfish bycatch reported by US pelagic longline fishermen in the US EEZ occurs in these three areas combined. In addition, these closed areas will reduce the longline catch of other species, including mahi mahi.

"The vessels have already left the areas being closed." Prior to entering into the MOU, The Billfish Foundation commissioned a study by Dr. Phil Goodyear to look at the biological effects of time and area closures on the reduction of bycatch in the tuna and swordfish longline fleets. Dr. Goodyear looked at thousands of data sets from longline vessels in the south Atlantic and the Gulf to determine where and when the greatest reductions could be achieved if areas were closed. That data was used to determine which areas should be closed. In addition, in the Gulf the objective was to address the area of the greatest billfish bycatch and the recreational and longline fleet interaction without displacing the longline fleet to new areas of the Gulf or the Caribbean.

"There will be displacement of the fleet to the mid-Atlantic bight." There are two issues here. The first is the impact of the vessels being bought out and the second is the potential for more effort in the mid-Atlantic as a result of the closed areas.

A substantial portion of the negotiation over the MOU was spent discussing how to avoid the displacement of the eligible vessels to any fishery. The provisions in the bill that restrict the vessels accepting the buyout from participating in any commercial fishery were a result of those discussions. Vessels will be required to forfeit all of their state and federal commercial fishery permits. In addition, the vessels will be required to permanently forfeit their fishery's endorsement, which will restrict any subsequent owner from placing the vessel in a commercial fishery. The vessels are also prevented from reflagging. Since these vessels are in limited entry systems, this will reduce the number of licenses in the swordfish, tuna, shark and red snapper fisheries. None of these vessels will ever again carry a longline or fish commercially.

The remaining fleet is not likely to increase its activity in the mid Atlantic. Vessels not eligible for the buy out will be precluded from fishing in the East Coast closed area, but that does not mean they will be able to fish in the mid-Atlantic. Most of the remaining fleet fish in the closed areas during the winter when there is little activity in the mid-Atlantic. Closing some of the fleet out of the south isn't going to start a mid winter fishery

"This won't help get a rebuilding plan for swordfish." This bill is not intended as the exclusive measure to achieve a rebuilding plan for swordfish. The bill's aim is to reduce the harvest of small swordfish and billfish. However, it will greatly assist in the achievement of an Atlantic-wide recovery that was just negotiated at the recent ICCAT meeting in Rio. ICCAT agreed with the United States that it would adopt a ten-year rebuilding program for swordfish. That agreement came at some substantial cost to the domestic swordfish industry. In addition to taking a quota reduction, the domestic industry agreed to phase down its allowable discard of small swordfish. Without this concession by the industry, no deal approaching a ten-year rebuilding plan was possible.

Taken as a whole, the U.S. industry will take a quota reduction approaching 15% over the next three years, while other fishing fleets from the EU and Japan will take considerably less of a cut. I believe that the existence and the potential for eventual passage of this legislation gave the industry the will to make this sacrifice.

"Why not let NMFS close areas?" CCA strongly endorses the principle that the Councils and not the Congress ought to manage fisheries. Given that, you might ask why we are supporting a legislative approach

to address longline bycatch when the National Marine Fisheries Service is in the process of proposing rules to do just that. The reason is that NMFS does not have the authority under the Magnuson-Stevens Act to accomplish what can be accomplished through these bills. As Penny Dalton will tell you, these bills go well beyond what NMFS can accomplish through a rulemaking.

NMFS can clearly close areas to longlining; however, in doing so it must take several factors into consideration, including the economic impact on the longline fishery and the biological impact on other fisheries if the closed areas result in the displacement of vessels. It has no authority to buyout displaced vessels and, therefore, would have to adjust the area it is proposing to mitigate the impact on the industry and other fisheries. This mix of considerations is best described by comparing the NMFS proposal for the Gulf of Mexico and the HR 3390/3331 Gulf closure. NMFS proposed to close an area in the Western Gulf from about Port Eads westward to the Mexican boarder for six months. This will have a significant biological benefit for billfish in the western Gulf and could have a positive impact on the spawning populations of bluefin tuna. It will, however, displace the entire western Gulf longline fleet to the eastern Gulf during that period. CCA members and anglers in Texas will enjoy substantially improved recreational billfishing and will be effectively free of any longline interaction. However, our members in Louisiana, Mississippi, Alabama and Florida will get to enjoy an even greater interaction with the longline fleet as longliners shift their effort to the east. Both of these bills are designed to prevent the lateral displacement of the fleet in the Gulf. By pushing the longline effort further offshore, it creates separation of the two activities and produces a positive conservation effect.

On the East Coast this is even more dramatic. These bills propose a permanent closure on the East Coast from Key West to North Carolina. It assumes that there will be a number of vessels displaced as a result and offers to buy them out of all commercial fishing rather than allow them to shift their effort. NMFS can close the same area or an even one larger, but when it does, it will simply send the effort elsewhere, either to the Gulf or the mid-Atlantic. The alternative would be to reduce the size of the closure, thereby reducing the potential for displacement but also reducing the conservation benefit. Neither of these two results is going to make recreational fishermen happy.

Mr. Chairman as you can tell from this testimony that the groups I represent support the Goss bill. We would be remiss however in not thanking you for your leadership and your efforts to balance the concerns of the multiple constituencies. We have tried our best to address those concerns ion the Goss bill and think that approach has the best chance of ultimate passage. Your help in continuing this legislation will be invaluable and we look forward to working with you.

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