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PUBLIC HEARING

before

ASSEMBLY CONSERVATION AND NATURAL RESOURCES COMMITTEE

State response to the Federal Bluefish Management Plan
and implementing regulations

August 13, 1990
John A. Taylor Pavilion
Belmar, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Daniel P. Jacobson, Vice Chairman
Assemblyman Joseph A. Mecca

ALSO PRESENT:

Assemblyman John A. Villapiano
District 11

New Jersey State Library

Jeffrey T. Climpson
Office of Legislative Services
Aide, Assembly Conservation and
Natural Resources Committee

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Hearing Recorded and Transcribed by
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State House Annex
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Trenton, New Jersey 08625



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NOTICE OF A PUBLIC HEARING

The Assembly Conservation and Natural Resources Committee will hold a public hearing on the State response to the federal bluefish management plan and implementing regulations.

The hearing will be held on *Monday, August 13, 1990, at 7:30 p.m. at the John A. Taylor Pavilion, 5th Avenue and Ocean Avenue, Belmar, New Jersey.*

The public may address comments and questions to Jeffrey T. Climpson, Committee Aide, and persons wishing to testify should contact Deborah Del Vecchio, secretary, at (609) 292-7676. Those persons presenting written testimony should provide 10 copies to the committee on the day of the hearing.

DIRECTIONS:

From Trenton, take I-195 East. At its terminus, it will turn into Route 138 (formerly Route 38). Continue on Route 138 until you intersect Route 35 at the terminus of Route 138. Take Route 35 North. At about 5th traffic light, turn right onto 8th Avenue. Continue on 8th Avenue for 7 or 8 blocks to Ocean Avenue. Turn left onto Ocean Avenue and continue straight for 3 blocks to the pavilion (a large white building), which is located on the boardwalk and beach. Metered parking may be found along the beachfront. Other parking may be found around Silver Lake nearby.

From Garden State Parkway, take Exit 98 onto Route 138, then follow directions as above.

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ASSEMBLYMAN DANIEL P. JACOBSON (Vice Chairman): May I have your attention, please? I just want to make a quick announcement before we begin: We are going to try to get everybody in who wants to testify. If you want to testify, we have a sign-up sheet right here on the edge of the table. Why don't you come up right now real quick and put your name on it, if you haven't already, so we can have a list and I will try to go through it. I will try my best to get to everybody, but I have a hunch this one is going to be a little harder to do than the other ones. I will do my best.

All right, I think we are just about ready to begin, if I may have your attention, please. Your attention, please. I brought my man with the gavel over here on the right. Thank you very much, Assemblyman Mecca. Also, please try to speak up. Obviously, we don't have any microphones here for audio. These mikes are just for recording purposes. So if you can't hear-- Please just say you can't hear, in case we aren't loud enough for you.

This is a public hearing of the Assembly Conservation and Natural Resources Committee, of which I am Vice Chair. The purpose of it is to take a look at, and examine the Federal bluefish regulations that have gone into effect, the so-called 10-fish limit, particularly to understand them better, and particularly to understand how they impact on the State of New Jersey, and what the possible responses are from State government.

In line with that, representatives of the Federal government have been kind enough to come here tonight to give us some answers and take some questions, along with, obviously, many representatives of various fishing groups and fishermen themselves.

I just want to caution everybody. For a lot of people, obviously this is a very emotional issue, so we are going to try to do our best here to keep it as calm as we can.

That does not mean that you have to hold back at all, so please feel free to say whatever is on your mind. But please do it in a respectful way.

Of course, the main point of all this, again, is-- My biggest concern, and I have said this in all of the newspapers-- I am very concerned with the impact on our local economy, particularly the party and charter boat industry, as well as the bait and tackle shops, and as well as the publicity it gives in general that the Jersey shore is a place that is being regulated -- where the fisheries are being regulated. I am concerned about how that impacts on our image, which has been a very good one. I am also very concerned to make sure that these regulations -- to make sure what the justifications are behind these regulations, as well as, again, our possible State response.

I don't want to talk too much. This is the third in our series of hearings here. My colleague, Assemblyman John Villapiano, who also represents District 11, is sitting in as a member of the Committee for this hearing. I think John is going to have a brief opening statement.

ASSEMBLYMAN VILLAPIANO: Very brief, Assemblyman Jacobson. Thank you very much. I appreciate your organizing this hearing. Assemblyman Joe Mecca, thanks so much for coming down.

Ladies and gentlemen of the audience, people from the Federal government, and the State government: This is a very good cross section, and I think we should get a lot of work done tonight. It is not my intent to stand up here and rant and rave and talk on forever. I just think it is very important to know that New Jersey sportfishermen have always been in the forefront of conservation measures in the State of New Jersey and up and down the eastern seaboard. New Jersey has led the way in these areas. Our fishermen have never turned their backs when there was a problem. They have always

worked with the authorities, as opposed to against the authorities.

The bill and the regulation we see before us now to limit our catch to 10 fish, if it were truly warranted, probably would be supported by many people in this room. However, the facts are just not there. I think the reason for this hearing today is to try to hear a little bit more about why such regulations are being put into effect.

Secondly, I would also like to see addressed this evening the fact that the Federal government is beginning to try to move into State jurisdictional -- into State territorial jurisdiction, and impose regulations that are Federal in nature upon State territorial jurisdictional waters. Those two issues have to be addressed. I think the majority of the people in this room would like very much to hear the answers to those questions, as I would, Assemblyman, and I would very much like to get on with the proceedings.

ASSEMBLYMAN JACOBSON: Okay. Thank you very much. Assemblyman Mecca has waived his opening statement. He is just eager to hear the testimony, and I thank him for coming down from Passaic. He has been at all of the hearings we have had on menhaden and license to sell, and I commend him for his interest.

I would like to just have briefly the witnesses for the Federal government come up to explain the regulations and the general justification behind them, and then we will get into some questions and some discussion and maybe call you gentlemen back up. So, would you please get up and just give us a general explanation? I think that mike there is hooked up. Just say your name and title for the record, please.

J O H N C. B R Y S O N: My name is John Bryson, Executive Director of Mid Atlantic Fishery Management Council. We are a regional authority created by Congress to manage fisheries from the 3-mile to 200-mile zone offshore. The fishery management

plan you are speaking to tonight-- (much discussion about ability of audience to hear, placing of microphones, etc.) Is that better? (no response)

ASSEMBLYMAN JACOBSON: All right, try again.

MR. BRYSON: Okay. The plan that is before the group tonight -- the Bluefish Plan -- was actually started many years ago at the request of fishermen. That particular plan met with problems with the National Marine Fishery Service due to the fact that it did not assure against over-fishing. One of the main reasons it did not do that was because it did not control recreational fishing at all. It merely tried to control the commercial fishery, put the level at 20%, and leave recreational at 80%, but with no way to control that 80%.

Later, the Mid Atlantic States, as part of the Mid Atlantic fisheries -- I'm sorry, the Atlantic States Marine Fisheries Commission started a plan on bluefish. They invited the Council in to work on that plan. We assisted with that plan. It was then adopted by 14 of the 15 entities in the Atlantic States Marine Fisheries, as well as the Mid Atlantic Council, the New England Council, and the South Atlantic Council, which constitutes a range of the fishery.

There is a lot of concern about the need for the plan. Prior to the plan going into effect -- and Chris (referring to Dr. Christopher M. Moore) will give you the years -- the two years immediately, or three or four years-- You had a fishery starting out roughly at 27 million pounds caught -- a million fish caught, rather, 32 million fish caught, 33 million fish caught. While we were working on the plan, it dropped to 16 million, and last year it was 19 million. If that is not a substantial reduction in your minds, it sure is in mine.

So, there has been quite a reduction in the availability of bluefish. You may not see that, sitting here in New Jersey. You are in a hot spot. You are seeing a lot more bluefish than other people throughout the coast see. This

is not a fishery that congregates in any one area historically, although you have had good fishing here for years, but it is over quite a range. There were very few fish caught last year in the Chesapeake, the Delaware Bays, and even north. Some of you may remember in Kinnebrewport the President going out 12 times, and he hasn't caught a fish yet. When some of the Feds were questioning whether this plan was necessary or not, I just handed them a copy of that article.

But I think there is a misconception that there are no problems in this fishery. There are serious problems with the bluefish stocks. You are not experiencing them, and you may not experience them in the next fishery we are going to get into, and that is fluke, to the extent that everybody else is. There is another one coming right along the line that is going to be the same kind of problems, only worse.

Rather than trying to give you details, I would like to answer any questions you may have later, as they come up maybe.

ASSEMBLYMAN JACOBSON: Okay, yes. Just one more question as we get into it, a question that has been on my mind specifically in terms of the actual regulations: How do they impact on the three-mile limit on the State waters -- within the three-mile limit? I understand that New Jersey -- and we discussed it before the hearing -- is the only State, I guess, with the Marine Fishery Council, which has rejected implementing these limits within our three-mile limit. I think there was one other we were discussing that is considering it; the others have agreed to do it.

There has been talk about the regulations having the effect of forcing us to do it. What specifically do the regulations say about our territorial waters?

MR. BRYSON: The regulations don't force you to do it. I would hope that the problem will make you seriously consider it. What may be confusing people is the point that if

you have a Federal permit, by applying for and receiving that permit, you agree to fish by the Federal rules wherever you fish. However, if you fish in State waters, and only State waters, this plan does not control you in any way whatsoever.

ASSEMBLYMAN JACOBSON: Okay. All right, the one last question I have before we open it up and then probably come back, is: You mentioned other states along the coast. I just want to get a perspective. This is the hot spot, New Jersey. In terms of percentage of the catch -- of where the catch is taken versus the rest of the coastline, coastwide, do you have any idea of how much of it is in New Jersey, or in the New York/New Jersey area?

MR. BRYSON: We can give you that from past years. Chris? (response from audience; indiscernible) Over time, or last year? (back and forth dialogue with Dr. Moore indiscernible; no microphone)

HEARING REPORTER: Mr. Chairman, I'm afraid that will not be reflected on the record. It doesn't work out too well unless people speak right into a microphone.

ASSEMBLYMAN JACOBSON: Okay, no problem, thank you.

MR. BRYSON: Okay, I will reiterate what he said. The answer that Dr. Moore gave was that 25% of the catch last year was in New Jersey, and 23% in New York.

ASSEMBLYMAN JACOBSON: Okay.

MR. BRYSON: That is not the trend over the years, but that is last year's catch.

ASSEMBLYMAN JACOBSON: All right. We have heard a lot, for example, about the striped bass in this Committee, and have had a lot of discussions on the migratory patterns, where they spawn. What about the bluefish? Where is it spawning? Where is it migrating to and from? How much does it come into and out of New Jersey/New York waters?

MR. BRYSON: Well, if you don't mind, I will let Dr. Moore answer that.

ASSEMBLYMAN JACOBSON: Yeah, why doesn't he come up here so he will be on the record? Please identify yourself for the record, too.

C H R I S T O P H E R M. M O O R E, P H. D.: I am Dr. Chris Moore. I work for the Mid Atlantic Fishery Management Council. I am a Fishery Management Specialist. The question relates to the biology of bluefish. They range up and down the coast from Florida to Maine, perhaps even further. They are continental shelf spawners, so they spawn off the coast. They don't spawn in State waters in any great amounts. The young, juvenile bluefish use the State waters as nursery areas.

ASSEMBLYMAN JACOBSON: So it is not--

DR. MOORE: I guess the bottom line is, I can't give you the percentage of how much -- how many juvenile bluefish use nursery areas within the State of New Jersey.

ASSEMBLYMAN JACOBSON: Okay. From what I understand, I know in the striped bass regulations you are regulating in terms of size as a way to make sure that in certain years they continue to spawn and reproduce. This is not a regulation by size, obviously; this is just by number. How is this working to keep the species healthy versus the-- Why the difference from the striped bass? Why isn't it regulated like the striped bass?

DR. MOORE: There are a couple of different ways that you can regulate recreational fisheries: One is a quota, where you implement a total catch amount. Bag limit is another form of a quota. We look at historical landings and then allocate based on those historical landings to the members of the user group. So basically that is what you are doing with a bag limit, setting a sort of an allocation for the recreational fishermen.

The 10-fish possession limit based on the 1987 data we looked at had an impact of about -- impacted in '87-- If you had put a 10-fish possession on it in 1987, looking at

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historical data, which is all we really have, you would have impacted 7.3% of the angler trips, out of 100%. So 7.3% of the angler trips would have been affected by a 10-fish possession limit, which means that about 92.3% of the anglers caught less than 10 bluefish every time they went out in 1987.

ASSEMBLYMAN JACOBSON: All right. Do you have any questions, Assemblyman?

ASSEMBLYMAN VILLAPIANO: Yes. My question concerns the fact that this limit seems to be on recreational fishermen, whereas the commercial fishermen-- I am not involved with commercial fishermen; that is not my point. I am making this point: They have applied for an increase in the allowable catch, as far as a keepable catch for bluefish. The first thing I would like to know is, is the Federal position for the commercial catch to be kept? And number two, how can you justify the commercial figure going up while the sportfishermen figure goes down?

MR. BRYSON: In the first plan, when we did it-- We started in 1984 and held public hearings. We talked about a 80/20 split, which would have allowed some growth in the commercial fishery. As we got into this plan, we started off with basically the same premise, but one thing has become very apparent: the number of recreational fishermen who want to sell their catch, or do sell their catch. So when you see the commercial getting a 10% increase, that is not a true 10% increase to commercial. That simply accounts, in large part, for the recreational fishermen who are selling fish. I think the number of permits that have been applied for here in New Jersey could give you a pretty good idea about what that really is. That is the exemption to the 10-fish rule.

ASSEMBLYMAN VILLAPIANO: Isn't the theory behind this whole thing the conservation and protection of species?

MR. BRYSON: It's conservation, but it is also distribution among user groups. The 10% is not the highest

figure ever used. One or two years, it has been roughly 15%. In the past plan, I think we said it was 12%. It dropped a little bit in-between. But 90% is reserved for recreational fishermen. That is a very large percentage. I don't know of any other fishery where any governmental agency has reserved 90% of the stocks for recreational fishery. That's a pretty damned good deal, to be honest with you -- or 80%, I'm sorry.

ASSEMBLYMAN VILLAPIANO: One more follow-up question, not along those lines, but very different, so we can get to somebody else's testimony. You mentioned before that if you apply for a Federal permit, you have to conform to Federal regulations.

MR. BRYSON: If you accept the Federal permit, you accept the conditions of the Federal rules.

ASSEMBLYMAN VILLAPIANO: Those regulations-- Are they in effect from shore out? If you decide--

MR. BRYSON: They are in effect wherever you fish if you have a Federal permit.

ASSEMBLYMAN VILLAPIANO: So any Federal permit-- Anyone in this room who applies for a Federal permit, if you determine this regulation is in effect, then from the beach out they have to abide by the 10-fish limit?

MR. BRYSON: Beach in, too, if they accept that permit.

ASSEMBLYMAN VILLAPIANO: Right. Thank you.

MR. BRYSON: But again, it is not rule preemption. It is ruled by attorneys as a condition of accepting the permit. The choice is theirs whether they take it or not, or want it or not. (comments from members of audience that they cannot hear)

ASSEMBLYMAN JACOBSON: I'm trying to see if there are any seats, so you can move. The best thing might be actually to move. I think there are some-- Why don't you guys move up over here? Move in here. You will hear very well if you are right here in front. I think there are a couple of seats. If you still have a problem after the next speaker, we will see what adjustments we can make.

I also want to note, although he is not going to testify unless we have questions about the State, Bruce Freeman is here from the Division of Fish, Game and Wildlife. He consented to come and answer questions.

Why don't we get now into some more testimony from people locally? Why don't we have Ray Bogan, from the United Boatmen, come up first? Ray?

R A Y B O G A N: Thank you, Mr. Chairman, Mr. Assemblyman. The nature of what I have been asked by the Boatmen to come and testify on would be the issue of preemption primarily, the usurpation of State power. I had at one time spoken to you folks about that. The issue of preemption was raised in the May meeting of the Marine Fisheries Council -- the New Jersey State Marine Fisheries Council. In particular it was expressed that if the State of New Jersey did not go along with the Federal regulations, the Federal government might, and indeed would likely, preempt the State. In that regard what they would do is impose the Federal regulations on all State waters.

Two comments on that, from our standpoint -- the Boatmen's standpoint -- and from the legislative standpoint. Two things have to be demonstrated before the State would be preempted. In particular the first would -- I will go in inverse order-- Part B of section 1856 states specifically that it can be preempted; that is, the State can be preempted in the event that the State action or inaction somehow thwarts the management scheme as a whole. That part right there is relatively vague statutory language, and therefore would have relatively vague statutory construction, and the likelihood is that you could prevail on that if the Federal government were to argue preemption.

The second one, however, becomes more difficult, and that is, the Federal government, I believe, would have to demonstrate, in particular, that the fishery, as is stated in the statute-- The fishing and the fishery which are covered by

the Fishery Management Plan implemented under this chapter, are engaged predominantly within the fishery conservation zone and beyond such zone. In layman's language, that means that the bluefishery is predominantly three miles out. Especially as of late, if the Federal government were to suggest that they were going to implement some type of preemption, it would be practically impossible, I believe, to demonstrate that the fishery is outside of three miles. The reality is, at this point, as most of us can testify -- John Bracket, and any of the folks who have been out most of the summer -- that most of the fishery is well within three miles. That covers two states. That covers New York and New Jersey; that is, 48% -- approximately 47% or 48% -- of the fishery along the coast can definitively be proven to be within State waters. Therefore, in my opinion, the preemption issue would not be-- There may be an attempt by the Federal government to practice it, but I certainly think that they couldn't intellectually argue that this is predominantly a fishery that is carried out in Federal waters.

ASSEMBLYMAN JACOBSON: So you're saying that the Federal law basically says, if a fishery is basically in State waters within the three-mile limit, then it is the State's jurisdiction, and the Federal government cannot preempt State action.

MR. RAY BOGAN: It is. I mean, it comes from the Constitution.

ASSEMBLYMAN JACOBSON: That is from the cases or from the actual law?

MR. RAY BOGAN: Well, no, it is from the actual law, but if you have section 1856 -- not just the pocket part, but also the main text, I think it is 3-B -- in particular you will see the two points that they use for preemption. Any danger we have, if I may, would be actually-- (witness moves towards Assemblyman Jacobson and points out section of law)

The point is, one of the concerns that I understand the Assembly would have would be -- and in particular also the Marine Fisheries Council -- that if we do not take action which somehow conforms with the Feds, then we are going to be preempted anyway. Almost anybody who has defended the Constitution, or who believes in the Constitution, thinks that is an extraordinarily dangerous thing. Not only is it dangerous, but it is also precluded by the very terms of the Magnuson Act, in my opinion.

There is another thing which is somewhat related, and it also comes back to section 1856. I am trying in particular not to regurgitate everything that was brought into our lawsuit. This in particular goes towards the usurpation of State power, and whether, indeed, the Feds should be put in the position where they do usurp State power. In particular, the Federal government has stated that if a person is to take a permit, then they thereby implicitly accept the dictates of the statutory -- or, I'm sorry, the administrative regulation; that is, the Bluefish Management Plan.

The problem I have there is, it does contradict the first few sentences of section 1856 and, for some reason or other, the Federal government is very, very-- They feel very strongly that they have to somehow intercede and cut off the states'-- It wouldn't only be the State of New Jersey, because -- and Mr. Bryson can correct me on this-- I believe that at this point the State of Rhode Island has still not accepted-- They still have not definitively come out in favor of the plan, as I understand it. So there are, in fact-- (Mr. Bryson begins to respond to witness; indiscernible, no microphone)

ASSEMBLYMAN JACOBSON: Wait, wait, wait, wait.

MR. RAY BOGAN: Respectfully, I believe the situation is not at that stage yet.

ASSEMBLYMAN JACOBSON: I think New Jersey is the only State that has actually rejected, through a vote-- New Jersey

is the only State that has actually rejected within the three-mile-- (indiscernible comment from Mr. Bryson from audience)

MR. RAY BOGAN: But that is not the issue. The issue is whether a particular state actually accepts it. For example, New York would have to take legislative action. In other words, they can vote on the ASFAC, but they can't go back and tell the legislature, "You accept it within the three-mile jurisdiction." Therefore, we are not standing alone.

ASSEMBLYMAN JACOBSON: All right.

MR. RAY BOGAN: That is the important point here.

ASSEMBLYMAN JACOBSON: Basically, Ray, I just want to make sure for the record, because there will be a transcript of this and other Committee members will be looking at it. So what you are saying is-- It is your assertion -- and I think it partially came out in the questioning, too, from John Villapiano -- that anyone who gets a Federal permit, which is anyone who is going to fish between three and 200 miles, which I assume is any party or charter boat--

MR. RAY BOGAN: Right.

ASSEMBLYMAN JACOBSON: --then also has to abide by the 10-fish limit within the State territorial waters -- within the three-mile limit.

MR. RAY BOGAN: In the event that you get a permit--

ASSEMBLYMAN JACOBSON: If you get a permit.

MR. RAY BOGAN: --the way it reads is that you do accept that, meaning that you accept the Federal terms.

ASSEMBLYMAN JACOBSON: Why don't we come back-- We'll take a few more. Keep your questions all set, and we will come back to John Bryson, to keep it orderly. That is why I wanted John to go first, and we will come back to him.

MR. RAY BOGAN: There is a final thing that is important, and it is directly related to the Bluefish Plan. Assemblyman Villapiano brought out -- and I think it is more

perceptive than the Feds know-- In particular, he states that New Jersey was in the forefront of fisheries management. I think it has been stated on many occasions, and therefore I think it is appropriate for us to say-- For example, fluke management-- I think the Federal government feels that somehow New Jersey has slacked off on that. The fact is, in particular, our Marine Council, and ultimately we all accept it, a 13-inch limit--

ASSEMBLYMAN JACOBSON: One fish at a time.

MR. RAY BOGAN: Okay, but it is relative to the Bluefish Plan, if you don't mind my saying so. The reason it is, is because there is this ground swell that has arisen within the Federal government that somehow we are not buying into the Bluefish Plan, like we have not bought into so many other management plans. That is why I say that what Assemblyman Villapiano brought up is very, very relevant. It was really perceptive, because the reality is, we have. If there was a very good basis for the Bluefish Plan, and if we could justify it as written, then that would be a whole different ball game. But we can't, and therefore that is the reason we are asking the State Assembly, and we are asking the whole State Legislature, and the Marine Fisheries Councils, and any other entity which is directly involved in fisheries management to reject it insofar as the State waters are concerned.

Thank you. (applause)

ASSEMBLYMAN JACOBSON: Okay. Any questions? (no response)

Our next witness will be Ms. Rhonda Leonard. Ms. Leonard?

R H O N D A L E O N A R D: Thank you, gentlemen. I own, as I think a lot of the folks know, two of the boats out at the Belmar Marina, one being the Golden Eagle, and one being the American Eagle.

I have a couple of things that I want to direct to, I think it was Mr. Bryson: One is, when he stated things with regard to-- You will have to excuse the way I am going to go about this here.

ASSEMBLYMAN JACOBSON: Hold on for one second, please, John. Ms. Leonard has a few questions.

MS. LEONARD: Mr. Bryson, you stated that your findings were--

ASSEMBLYMAN JACOBSON: Rhonda, you have to speak into the mike.

MS. LEONARD: I'm sorry. You stated that your findings showed a reduction in the amount of fish being caught. Is that correct? (Mr. Bryson nods affirmatively) Well, the way I find your people -- and we have testified to this before on a number of occasions as to your fact-finding procedures and their credibility, about which there is quite a dispute--

You have sent out questionnaires. Now, in the early stages, I think a lot of the boatmen were cooperating, until they found out where you were going with this. Then they stopped filling the forms out and turning them in. Now, by your own statement, you said that the catch is reduced. Well, if I don't fill a form out for you to tell you how many fish I have caught, obviously the catch has been reduced, but yet it is not an accurate picture you are getting. All right? That is number one, that I am not at all happy about in your statement.

The other thing is, it seems to be that we are dancing around about the EEZ and the permit and the whole thing. Well, I spoke to your people up there in Gloucester. The way it was explained to me was, once we apply for a permit, we are under your regulations -- period. I can go out there and catch all the darned fish I want within three miles, and then the moment I cross over that three-mile limit into "Federal waters,"

you're telling me that those fish are now Federal fish. So, let's not dance around about it. The minute I have the permit, that is what you are telling me is happening. That is the way it reads. That is the way your people explained it to us. Now you're saying that is not it.

ASSEMBLYMAN JACOBSON: Rhonda, he is going to have a chance to respond--

MS. LEONARD: All right.

ASSEMBLYMAN JACOBSON: That is one of the reasons I wanted to call this hearing, because there has been a lot of confusion about exactly how this works. I would like to resolve it, too.

MS. LEONARD: Well, that is one of the points. I mean, it seems real clear here, and the fact that they are also going to put our gear -- whatever they are terming "our gear" -- under their regulations-- However, we have applied for permits.

Now, let's go to your next statement where you indicate that the number of permits applied for by the recreational fishermen shows that they are selling fish. Well, again, things are a little bit ambiguous. You say that we have to apply for a permit if we are going to possess more than 10, yet your permit doesn't say a darned thing about possession. It says right on the top of it, "to sell."

Now, I, personally, have had permits aboard our vessels so that if our people wanted to, they could fill them out, because they are afraid of being in violation, not because they want to sell, not because they are commercial fishermen, but because they are afraid of being in violation.

ASSEMBLYMAN JACOBSON: Rhonda, I'm sorry, I didn't understand that point. You're saying--

MS. LEONARD: Okay. We have a permit right here, an application. It says-- Bear with me here. On the application: "Application for permit to sell bluefish." It

doesn't say a damned thing about possession over 10. I just says, "to sell." By your own words, you just stated -- and we could check the tape -- that by the amount of permits being applied for, it is showing that recreational fishermen sell their fish. They don't. They just want to be in possession, in case they have more than 10 -- period, end of story. That does not make them commercialmen. And this permit doesn't then have to then go when you do your little studies, and say, "Well, now we have 425 permits. These are commercialmen. Let's put them in this pile." They are not commercialmen -- period. That is the next point about a fallacy in your plan here.

The other point is the fact that here it says-- This one is a real gem. "An application for a permit under this plan must be signed by the applicant on an appropriate form obtained from the regional director and submitted" -- now here is the real kicker, fellows -- "at least 30 days prior to the date on which the applicant desires to have the permit made effective." Great!

So John Doe, who wants to come down fishing, but who doesn't know exactly when because he is waiting for a nice day so that Johnny doesn't heave his guts out on the boat because it is too rough, and when Janey, his wife, wants to go to the beach-- He has to know exactly 30 days in advance that he wants to go fishing on such and such a day.

Don't shake your head at me, sir. These are your words in here.

ASSEMBLYMAN JACOBSON: Now, hold on. Everyone will have a chance to give both sides. Don't worry.

MS. LEONARD: I am getting annoyed.

ASSEMBLYMAN JACOBSON: I know. It is very emotional. That is what I stated at the beginning. Everyone will get a chance to say what they want.

MS. LEONARD: And we all know how calm I am. Okay.

Now, let's go on. Oh, there are tons here. The other item, of course, is the fact that our business is off. The percentage of charter bookings has fallen off so drastically since this hit the press that it is ridiculous. We went from booking regularly until finally we got the dirty water off our backs, the bluefish weren't there, to, "Okay, everything is fine. Nobody is saying anything. It is time to come back to the shore," and then suddenly we get hit with this. Our charter bookings fell down. I don't know about anyone else's, but ours did.

My out-of-state business fell down. People who come to this State for recreation -- not just to my business, but to use the beaches, to eat in the restaurants, all the facilities -- they don't want to come in now because, why should they come in on vacations to catch fish that they load up, they freeze, they take home to families, neighbors, friends? They need more than 10 to make it worthwhile to come in from Ohio and everywhere else. I don't have them anymore. I don't have the guy who comes in for five days on his vacation with his family and a bus load of people. He is not coming. Why should he bother if he can only catch 10 fish?

I am tired of that. I don't like the ripple effect. I am going to then lay people off. Unemployment is going to go up in this State. That's crazy. I don't like the whole plan.

I could go on, but at this point, I would like to hear Mr. Bryson's response to some of those questions.

ASSEMBLYMAN JACOBSON: Rhonda, just a couple of questions first: As far as bluefishery for party and charter boats-- Can you describe what role that plays in your business and your income in terms of how people fish? We have talked a lot about other types of fisheries. Are bluefish the fish?

MS. LEONARD: Let me put it this way: 98% of my living is derived from the ability to catch bluefish -- period. That is as simple as it can be.

ASSEMBLYMAN JACOBSON: Okay. Let me just make sure-- I am going to have Mr. Bryson come up to answer some questions. I know he wants to give some information in terms of Ray's and your comments.

These are the notes I have: You are concerned about the system of counting with the questionnaires. Is that number one?

MS. LEONARD: I want to know about the fact that he is stating, "Oh, well, the permit comes in," and suddenly it is going to be dumped into a commercial category, when these are just recreational fishermen afraid to be in violation of some Federal ruling.

ASSEMBLYMAN JACOBSON: Because of the selling -- the way the license to sell to--

MS. LEONARD: The license itself says nothing about possession. It just says, "to sell." These people are not selling.

ASSEMBLYMAN JACOBSON: And you are also concerned about the 30-day waiting period.

MS. LEONARD: Of course. We are all concerned with that. We are concerned about the EEZ and the regulations. I am concerned about the impact. I think the plan stinks.

ASSEMBLYMAN JACOBSON: Okay. Assemblyman Villapiano?

ASSEMBLYMAN VILLAPIANO: I have no questions.

ASSEMBLYMAN JACOBSON: All right. Thanks, Rhonda.

John, do you just want to-- Do you want to take a few more? Every few witnesses, do you want to give some answers? (affirmative response from audience) Okay. Rhonda is concerned about the questionnaire and the accounting system, as well as the fact that it seems to be a license to sell. And also, can you address the 30-day issue?

MR. BRYSON: To start with, the data we use are nice marine fishery service data that are collected in cooperation with the states. It is not a survey we make at all. It has

nothing to do with any survey we might make. It is considered to be the best data available, whether there is disagreement or not. That is one of the questions in the suit, and I am not going to comment further on that.

The 30-day period is simply to enable (indiscernible) to process the applications that come in and get the permits back to you. It is not 30 days prior to the day you are going fishing. You can get it and fish all year with it. It is--

ASSEMBLYMAN JACOBSON: I'm sorry, I didn't understand. If I want to go fishing--

MR. BRYSON: You can apply for it in January and you can fish with it all year.

ASSEMBLYMAN JACOBSON: Oh, I see.

MR. BRYSON: It is not a matter of you having to apply for it 30 days prior to the day you are going fishing. That is completely ridiculous. It simply allows time for the permit to be processed, the same as if you were processing a permit in New Jersey.

As far as the Federal permit for recreational fishermen goes, it is an exemption permit for those who wish to sell fish. Recreational fishermen are prohibited in the plan, or limited in the plan to the possession of 10 fish per day in the EEZ. If you want to catch more than that for sale, why is that a commercial application? That is what it was put in for. If you use it for any other purpose, you are trying to thwart the process and take advantages for New Jersey people that others may not have. You may be doing that, but you are bending the concept if you do, because it was as a permit to sell. What I did say was it was an indication, not proof.

ASSEMBLYMAN JACOBSON: I want to understand something: I want to go fishing. I am not going to sell the fish.

MR. BRYSON: If you fish EEZ--

ASSEMBLYMAN JACOBSON: I want to go fishing the EEZ. I have my own boat. I go to Belmar; I have my own boat; I fish for blues; and I go out beyond the three-mile limit. What exactly do I need?

MR. BRYSON: You are limited to 10 fish.

ASSEMBLYMAN JACOBSON: Okay, but about-- When I apply for the limit, though-- I mean, when I apply for the license-- I still have to apply for a Federal license, don't I?

MR. BRYSON: No. No license is required for you to go fishing -- for recreational fishermen -- to keep 10 fish. If you want to keep more than 10 fish and sell, then you apply for that permit. Now, if the State of New Jersey issues a permit to sell, no Federal permit is required. Only because New Jersey does not have a permit to sell are we issuing the Federal permit in lieu of that, in order to help your citizens out because you don't have one. Many states do have it, and we do honor those permits.

ASSEMBLYMAN JACOBSON: So what you are basically saying is, outside the three-mile limit-- Obviously, you can't possess more than 10. If you want to possess more than 10, you have to apply for this exemption -- for this license.

MR. BRYSON: And it is a permit to sell.

ASSEMBLYMAN JACOBSON: And a permit to sell, because of the presumption that you are catching over 10 fish?

MR. BRYSON: Yeah. That is not too bad of a perception if you think about what Dr. Moore said earlier about the number of people catching 10 fish or less.

ASSEMBLYMAN JACOBSON: The point is, you just want to stop--

MR. BRYSON: You may have people taking 10 or 12 fish, yes. I won't deny that. But the majority of the people who want to take many more fish than that have been, in the past, selling them. There have been recreational people selling fish.

ASSEMBLYMAN JACOBSON: Back to something that Ray talked about real quick: The interaction between the Federal regulations and the State-- One of the things that Ray Bogan said was, if the State doesn't act, he believes the Federal government -- and he cites the statute -- does not have the authority to come in and implement the same plan at the three-mile limit. Is that true, and if it is true, is there any plan to have that happen? What is going on there? I noticed you were shaking your head when Ray brought that up.

MR. BRYSON: What I was shaking my head about was the fact that the permit -- the use of it-- The only permit a recreational fisherman gets is an exemption permit. Therefore, it has nothing to do with the 10 in State waters. That is what I was shaking my head at Ray about.

His comments about preemption -- his statements -- I have no arguments with. He said he did not think the Federal government could preempt. If he had said "would," I wouldn't argue with him a bit.

ASSEMBLYMAN JACOBSON: Are there any plans to preempt? That is what I am saying.

MR. BRYSON: At this point, the way the fishery is prosecuted, I doubt it. Now, what I think someone may have said -- and it may have been me on the process -- was, if the plan were to be thwarted in the process by what is happening here, and if further states join New Jersey in their concept, then I think you may see another striped bass plan, but I don't think you are going to see the Secretary of Commerce preempt New Jersey on this plan as it stands now.

ASSEMBLYMAN JACOBSON: I'm sorry, I am not going to see what?

MR. BRYSON: I don't think you will see the preemption from the Secretary of Commerce as it stands now.

ASSEMBLYMAN JACOBSON: At this stage, at this point.

MR. BRYSON: Or if it stays status quo.

ASSEMBLYMAN JACOBSON: Status quo, okay.

MR. BRYSON: That is a matter of opinion. The Secretary would have to make the determination that the majority of the fish are in the EEZ and New Jersey's action was thwarting the plan. That is what he said, and I don't argue that point with him at all.

ASSEMBLYMAN JACOBSON: Okay, thanks. Have you signed up? (negative response from unidentified member of audience) Why don't you come up and sign up, if you have some questions?

All right. David Bramhall, United Boatmen of New Jersey, is next.

D A V I D B R A M H A L L: I would like to thank you, Assemblyman--

ASSEMBLYMAN JACOBSON: Please identify yourself first, David.

MR. BRAMHALL: Yes. David Bramhall, Executive Director of the United Boatmen. We represent party and charter boatmen in New Jersey and New York.

Assemblymen Jacobson, Mecca, and Villapiano, I would like to thank you again for having this hearing down here. It is so nice to have you come to us in our local area of Belmar, which is probably in the heart of the greatest bluefish fishing area in the entire world. It is so nice for you to come down to get the opinions from those of us whose livelihoods depend on this very important resource.

As you are well aware, the bluefish is the most valuable recreational fish caught in the State of New Jersey. It contributes about \$500 million to the State's economy annually. As you are probably also aware-- Until tonight, I thought New Jersey was the second largest bluefish fishing State in the country, but now I find out, thanks to Mr. Bryson, we are the largest.

From a historical standpoint, much of modern recreational bluefishing was developed off the coast of New

Jersey. We developed such things as planners, chumming for bluefish, night bluefishing, and so forth. They were all started in this area. The other thing that was also started in this area was the movement to have a Bluefish Management Plan. I know our organization personally testified before the House of Representatives on April 24, 1978 to call for a plan to protect this very valuable resource from dissipation, as we had seen happen with many other resources along the coast.

What we were concerned with was to preserve the resource in an equitable manner which would preserve the livelihoods of both existing recreational and commercial fishermen. As we saw it, the centerpiece of any sort of management scheme should be primarily a prohibition against any new, large, massive commercial fishing effort on bluefish, such as we had seen dissipate nearly every other stock of fish off our coast. We thought that was simple, and we thought that was equitable and would preserve not only our livings, but the livings of the commercial fishermen who were now fishing for them in this State.

Now, I was very interested when Mr. Bryson referred to our President having problems catching bluefish last summer. As Mr. Bryson has also aware, at the same time the President was trying to catch bluefish, about 10 miles off the coast of Maine, people who were using groundfish gill nets to catch cod, haddock, and so forth, were being inundated with large bluefish, 10 pounds and up. At first they started to land the fish; then, instead of landing the fish, they started to just throw the fish back. Then, when they decided that was too much work, they cut the nets loose, and they not only let the fish that were in the nets die, but they let the nets continue to fish and kill other fish.

It is very interesting that this was going on at the exact same time the President was trying to catch bluefish 10 miles away. The Bluefish Management Plan does nothing to

address such problems. In fact, thanks to the Bluefish Plan, the President wouldn't have any easier time catching a bluefish this year than he would last year, if the same operation were to continue.

We strenuously object to the recently implemented Bluefish Management Plan, specifically its centerpiece of a 10-fish recreational limit. Not only does it fail to protect the resource, but it allows for an expansion of the commercial fishery, from the existing 10% to 14% to a possible 20%. Now, as I thought about what Mr. Bryson said about the recreational fishermen who would apply for permits and would then be classified as commercial fishermen, according to their own statistics-- If I am not mistaken, you calculated the percentage would be approximately 2%. Approximately 2% would be the added increase in the commercial catch, which still leaves room for somewhere between a 4%, 5%, 7% increase in the commercial landings.

So, we are looking at an increase in the commercial fishery and, at the same time, we are looking at a reduction in the recreational catch.

Now, in terms of real numbers, the Bluefish Plan, according to their own scientists, should reduce the recreational catch by approximately six million pounds annually. If you do the math, the commercial catch would be allowed to increase between 12 million pounds to 18 million pounds, depending on the base year you use.

Now, these numbers don't make sense in terms of preserving the resource. They don't make any economic sense, especially when you realize that using Federal statistics the average commercially caught bluefish is worth 26 cents a pound, and then if you-- The recreationally caught fish is worth substantially more than that. If you divide the New Jersey figure by the New Jersey catch and so forth, you come up with something like around \$5 a pound's worth, or something, for recreationally caught bluefish to the State of New Jersey.

Beyond that, the most important thing here is that we see that the recreational fishermen in New Jersey are not receiving equal treatment under the law. We see that we are allowing for a moderate -- this is a quote -- "moderate expansion of the commercial fishery at the same time we are reducing the recreational fishery."

You know, when you then plug in the numbers and you realize, I think, that the entire commercial catch is worth, what, three-and-a-half million dollars coastwise, or something like that-- (many comments from members of audience)

ASSEMBLYMAN JACOBSON: Hold on, hold on, hold on. I'll take one at a time. I am going to call on-- In fact, Les Layton is next, so you will be able to get your response. One at a time, please.

MR. BRAMHALL: Now, the other thing we were assured of by the Council as a plan was developed, was that there should be a minimal adverse economic effect on the recreational fishing industry. They have said that time and time again. According to surveying our members, we came up with an average that business is off approximately 25%. We have members who claim that aspects of their bluefish business are off as much as 75%.

Now, this is in spite of the fact that we have good fishing right now. We have good water quality. We have good water quality reports in the press, and we have had generally favorable weather this summer. As an example of that, this past January and February, when people in the charter boat business were booking charters, most everyone you talked to was very pleased with their charters, the way they were coming in. I was very pleased. I thought we were doing very well. Come March 20, when the news of the bluefish limit hit the papers, my telephone stopped ringing. Coincidentally, most everybody else that I talked to reported a similar dropoff right at that period of time. If you remember, at the time there were no other environmental problems or anything to scare anyone off.

And coincidentally, since then, when someone picks up the phone and talks to you, especially a working class person, the first question generally out of their mouths is: "Well, what about this 10-fish limit? We are not going to be able to keep more than 10?"

ASSEMBLYMAN JACOBSON: David, I will have to ask you to sum up, because I want to keep the hearing moving.

MR. BRAMHALL: Yeah, okay. The people who have been most adversely affected by this -- of our customers -- are working class people from Allentown, from Newark, from Philadelphia, and so forth, who used to be able to come and catch 100 pounds of bluefish after paying \$25, and they would be able to fill their freezers at 25 cents a pound. Now they cannot do that. Especially now, we have had very good fishing this summer. Most of the fishing has been inshore. We spent a lot of time catching two-pound fish, so the math doesn't work out. It comes up to be 20 pounds of fish.

Again, we would like to thank you members of the State Legislature, because you have been out in front in supporting us on opposing the 10-fish limit. The Governor has been; our congressional delegation has also been. We realize now that there is a movement both within the State and from outside the Federal government to push the limit on us again in some manner. Again, we would like your help and assistance to protect the economic interests of this area.

Thanks.

ASSEMBLYMAN JACOBSON: Thank you, David. (applause) Again I just want to point out the emotional nature of this. Obviously it involves people who work very, very hard for a living, whether you are a party or charter boat person or a commercial fisherman. That is why a lot of times there is a lot of friction and emotion surrounding this, because you are talking about people's livelihoods.

I notice there are a couple of commercial fishermen with us tonight. Les Layton wants to speak up now for awhile about what he has heard. Why don't you come up next, Les, to give us some comments? Please identify yourself for the record; speak right into the mike.

L E S L A Y T O N: My name is Les Layton. I am a commercial gill netter. For the last 20 years, I have been a member of the (indiscernible) Seafood Co-op. I have a few comments to make, and some rebuttals to what you have heard this evening. Some of the things I am going to say will back up Mr. Bryson.

First of all, I don't really-- I am not really against the 10-fish limit. What I am against is the people who catch more than 10 fish and sell their fish. I am in the business to sell fish and to make money. I sell fish to restaurants and wholesalers, fish peddlers for the consumer. These other people make their money bringing charter boat people out; making \$30 a head, bringing their people out and catching fish. It really doesn't matter whether they catch 10 fish or 100 fish, and it doesn't concern me if they catch 100 fish. It is when they sell the fish.

I have a tape right here of a couple of party boat captains, right out of this basin, right up here. One of the boats happens to belong to Ms. Leonard, right here. I would like to play the tape.

ASSEMBLYMAN JACOBSON: I would rather you didn't. I don't think it is necessary. I would rather just stick to the issue here, which is--

MR. LAYTON: They are talking about selling their fish and how much they are getting for their fish.

ASSEMBLYMAN JACOBSON: The issue here is not the conduct of any individual party or charter boat captain.

MR. LAYTON: The issue here is 10 fish--

ASSEMBLYMAN JACOBSON: I am not going to get into personalities here. What I want to do is get input in terms

of the hearing. You are making some excellent points about the effect of selling fish.

MR. LAYTON: This backs it up.

ASSEMBLYMAN JACOBSON: Whether it does or not-- That is an excellent issue, but I don't want to get into who did what, or whatever, because we have a lot of people who wish to speak. Your comments have been very good. Please continue to talk about the regulations.

MR. LAYTON: Very well. What happens is, a lot of times on the party boats, people catch more fish than they need. They'll catch their fish by 10:00 a.m., and they'll keep on fishing until 3:00 in the afternoon. What they do, is leave their fish to the party boats, to the mates and the captains. When they come back into the dock, they take the fish and they sell them, and they undercut my price. That is one of the biggest problems.

The other problem-- You'll have to bear with me -- with the trend of my thoughts here.

ASSEMBLYMAN JACOBSON: All right, take your time.

MR. LAYTON: The other problem is, we are fighting for the same territory. They say they are catching all their fish inside the three-mile limit. This is not necessarily true. In the springtime, they catch most of their fish offshore when the fish are migrating in deeper water. Us commercial gill netters have nets that tend the bottom and from the top down. But most of the time our fishing is done within one to three miles on the beach in the more shallow waters. We cannot fish in the deeper waters. The party boats and charter boats can range further offshore and cover a lot more area. Hence, they are saying there are a lot more bluefish than what there really are.

We catch our fish inshore near the beach, and we are not seeing that large a number of fish. For the last three years, I have seen a decline in the fish we have been catching. This morning, I had 1000 pounds of fish. Four years

ago, I could have easily caught 2000, 3000, 4000 pounds. Now, I just can't say that maybe the fish are declining, because it could be the weather. Everything contributes to the fishing.

ASSEMBLYMAN JACOBSON: You're saying this has been consistently all summer, or just now recently?

MR. LAYTON: Most of the time, yes. We have our high points, and we have our low points, but right now it is consistently low. Now, the weather could have something to do with it, because weather does have an adverse effect on our fishing. But our biggest problem with the commercial fishermen around here, is these people selling the fish and undercutting us. That is our biggest problem. Our sole income is bluefish right now. We catch a small amount of weakfish. We are not even allowed to touch striped bass. They can catch them up and down the coastline, and we can't touch them.

ASSEMBLYMAN JACOBSON: Do you think these Federal regulations, in any way, have helped you or hurt you with what you perceive as a problem with people undercutting you who are not commercial fishermen? Is the impact of that still basically your problem in your bluefishery?

MR. LAYTON: It is still a problem. I don't think anything has been rectified at the moment.

ASSEMBLYMAN JACOBSON: So, really, the Federal regulations have not impacted so much on what you perceive as your problem?

MR. LAYTON: No, because nothing has been done yet. We're still talking about it; still hashing it about. My biggest pet peeve right now is striped bass. I threw \$30,000 worth of striped bass back last year.

ASSEMBLYMAN JACOBSON: Let's forget about the striped bass right now. One thing at a time here. That is another thing we've got--

MR. LAYTON: Well, that is part of my business; that is what the problem is. It should be a coastwide thing. The

whole coast, from Maine to Florida, should be under a Federal guideline. What's good for one is good for all.

ASSEMBLYMAN VILLAPIANO: Les, I want to ask one quick question: You say your catch is down -- sporadic, but more down than up.

MR. LAYTON: Yes.

ASSEMBLYMAN VILLAPIANO: The Bluefish Plan calls for the number of bluefish -- the quota -- to be increased to commercial. How do you--

MR. LAYTON: That is because the permits that will be made out are going to come under the commercial quota side. So if you have 100 sports and 100 commercialmen, or I should say 100 sports and 50 commercialmen, maybe 25 of those sportsfishermen are now going to be selling their fish under the commercial quota side. They are making more leeway, because more fish are going to be sold and caught under my quota.

ASSEMBLYMAN VILLAPIANO: Thank you.

ASSEMBLYMAN JACOBSON: Thank you.

MR. LAYTON: Are you going to clap? (applause)

ASSEMBLYMAN JACOBSON: Thank you very much, Les.

Our next witness will be Tom Fote, Jersey Coast Anglers Association.

T H O M A S P. F O T E: I have a written statement here from the J.C.A.A. My name is Tom Fote. I am President of the Jersey Coast Anglers Association. I am also a member of the New Jersey Marine Fisheries Council.

The J.C.A.A. stands for conservation of all fisheries, but will not support plans designed just to affect recreational fishermen and not address the total fishery equally. Management plans are supposed to protect the resource, not just put restrictions on one side to benefit the other.

What we find objectionable in this plan is the placement of a 10-fish limit on the recreational side because

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of the so-called waste of fish by the recreational fishermen and no action taken about the commercial waste. To explain what I mean, let's look at the facts: The Atlantic States Marine Fisheries Commission, the Mid-Atlantic Marine Fisheries Council, and the National Marine Fisheries Service told the J.C.A.A. the reason they were putting a 10-fish limit on the recreational fishermen is to stop the waste of bluefish. When asked to prove that waste existed and when questioned about the amount of waste, the only thing they could show me was a survey that stated that .01% of the recreational fishermen they surveyed said they had wasted a bluefish. That means that for every 1000 fishermen, one said they wasted a fish.

Now let's look at the commercial side: In testifying before these committees, the commercial fishermen -- mostly from down south -- said that the reason they need to increase their quota from 13% to 26% is because they actually caught 26% and threw half of what they caught back dead because there was no market for these fish. They wanted to have the larger quota in case this market developed. The commercial fishermen caught 14,767,000--

ASSEMBLYMAN JACOBSON: Excuse me for one second. Les, people listened while you were speaking, with all due respect.

MR. LAYTON: (speaking from audience) That's true. Thank you.

MR. FOTE: --pounds in 1987, and if they wasted half of what they caught, that means they threw back 7,383,500 pounds of dead bluefish. The Bluefish Management Plan rewards the commercial waste of 7,383,500 pounds by letting their catch grow from 13% to 20% without doing anything to stop the waste. This action guarantees the waste will keep growing. On the recreational side, because one in 1000 recreational fishermen said they wasted a bluefish, we are being cut back to 10 fish per man.

We at J.C.A.A. have now seen the matter of the commercial waste issue addressed in the Bluefish Management Plan. The Atlantic States Marine Fisheries Commission, the Mid-Atlantic Marine Fisheries Council, and the Department of Commerce are still promoting the growth of the commercial fishery, while they are cutting back the recreational fishery. For these reasons we feel this plan is truly discriminating against the recreational fishermen.

Until this plan is amended appropriately, the J.C.A.A. will fight any implementation of this plan in the State of New Jersey. The New Jersey Marine Fisheries Council and some of the legislators of the State have shown their support for J.C.A.A.'s position and say they will not implement this plan until these problems are addressed. Assemblyman John Paul Doyle and Assemblyman John Villapiano have introduced AJR-20 against the 10 bluefish limit. Basically, the resolution says -- and John Villapiano can explain it better than I -- they do not support it.

What I am saying is, down south--

MR. LAYTON (speaking from audience): We're not talking about down south, though. (additional comments from members of audience)

ASSEMBLYMAN JACOBSON: Gentlemen, gentlemen--

MR. FOTE: I'm looking at the coastwide plan.

ASSEMBLYMAN JACOBSON: Please, please. You are all on the list. I will call you, and you will be able to say anything you want.

MR. FOTE: We are looking at a coastwide management plan. They interviewed people up and down the entire East Coast, as Dave Bramhall pointed out -- the guys and men. They were also cutting nets in Maine last year, doing the same thing, because their nets got full of bluefish. A fisherman off of North Carolina is setting his net for king mackerel. While he is setting his net for king mackerel, he

catches 10,000 pounds of bluefish. His hole will only support 6000 pounds. He's got 6000 pounds of king mackerel, which will bring him 95 cents a pound, so he dumps the 10,000 pounds of bluefish.

The same thing happens when they go for weakfish down in North Carolina. They set a net. They come in with 20,000 pounds of weakfish. They also catch 40,000 pounds of bluefish in that catch. There is no market for the bluefish. The hole will only carry, say, 20,000 pounds of fish. They will dump that 40,000 pounds, and not bring them to market.

That was the problem. I am going back three-and-a-half years, four years on this fight, when I walked into a striped bass meeting, which I attended with Bob Patino and John Shill (phonetic spelling), from the United States Marine Fisheries Commission. I said, "They're having a Bluefish Management Plan meeting over next-door. Let me go over and see what is going on." I walked in there, and all of a sudden I hear two commercial fishermen saying, "Recreational fishermen should be limited to 15 fish, because they sell their catch." That is what they were doing, and the Council was saying, "Yeah, we are going to put a limit on the recreational fishermen." I said, "I never heard this."

So I called Al Restori, because he had worked on the Mid-Atlantic Council, and I called Bill Feinberg and I called John Guize (phonetic spelling). I said, "What is it with this limit? I don't know about it." We implemented a plan 10 years ago -- we started in '78 -- which was to protect the gill net fishery and the recreational fishery. It was against the trollers, so they could come in, catch 100,000 pounds of fish an hour, and process those fish. That is what it was to protect. That is what the original plan said. It had nothing to do with pitting commercial against recreational. It was to keep these obsessive forms of catching fish out of the fishery and to protect the traditional fishery, the gill net fishery

and the charter boat fishery and the recreational fishery. That is what the plan said.

Somehow, the plan got twisted in the last five years because OMB said they wanted to implement a plan to limit our recreational fishing, and that is what we are stuck with now. I don't care what John says now. When I went to the Council three-and-a-half years ago and asked them why they wanted to do this, they said, "Because you guys waste fish." I said, "Well, that is your problem. You are supposed to educate the fishermen." But they don't. I asked them to do a film on how to release a bluefish. They said, "We have no money for that."

How much would a film cost? Fifty thousand dollars? They are trying to implement a plan that will affect millions of dollars in the State of New Jersey, and yet they don't want to spend \$20,000. They did finally, after pursuing it, come up with a pamphlet, "How to Catch and Release Fish."

I think people here on the coast are releasing what they catch. There was a party going out on the IFF. They chartered a boat the other day. The guys had 10 or 12 fish apiece, and what did they do? They bent the barbs and the hooks for the next four hours and released fish, because that was all they wanted.

ASSEMBLYMAN JACOBSON: Tom, I am going to have to ask you to sum up now, so we can get to everybody.

MR. FOTE: Okay. Well, that is basically what I have to say.

ASSEMBLYMAN JACOBSON: Okay.

MR. FOTE: This plan has been-- Hopefully, it will never be implemented in the State of New Jersey.

ASSEMBLYMAN JACOBSON: Thank you. (applause)

Now we will have the gentleman who represents the Congressman from this district, Frank Pallone -- Pat Gillespie. Pat, did you want to make some comments? (affirmative response from audience) Okay, please identify yourself for the record and speak into the mike.

P A T G I L L E S P I E: Thank you very much, Mr. Chairman. I am Pat Gillespie, the Monmouth County Representative for Congressman Frank Pallone, Jr. I would like to state unequivocally and for the record before the Assembly Conservation and Natural Resources Committee that Congressman Pallone has been opposed to this 10 bluefish limit since the beginning of the policy and since we first learned about it.

Basically the two words that I would use to describe this are, one, it is a callous policy, and actually a defiant policy -- defiant of the will of Congress. First of all, James McHugh, Chairman of the Mid Atlantic Fishery Management Council was questioned before the House Merchant Marine and Fisheries Committee, Subcommittee on Fisheries Management and Wildlife Conservation. He was asked about this plan and asked to produce some hard scientific data regarding waste among commercial fishermen and the fishery, data which he did not produce. In fact, he admitted under questioning that the service lacked the resources to do the job of fishery management properly, and that the Management Council tends to err on the side of limiting the catch of species in this case.

Well, it is our belief that that certainly does not take into account the human factor, the people who rely on the bluefish for protein and to put food on their tables, and the people like Dave Bramhall, who rely on bluefish for their livelihood, and the other people who rely on the recreational fishing industry here in New Jersey at the shore. They are all being impacted by this policy; they are all being hurt.

Secondly, on several different occasions -- repeated occasions -- Congressman Pallone--

ASSEMBLYMAN JACOBSON: Pat, may I ask you a quick question on something you said?

MR. GILLESPIE: Sure.

ASSEMBLYMAN JACOBSON: You mentioned that James McHugh commented about whether they could tell-- We have heard

stories, obviously, about outrageous waste -- commercial outrageous waste and recreational-- What did he say? Did he say they didn't have the resources to really prevent anything?

MR. GILLESPIE: Not the resources to prevent, the resources to provide hard scientific data about waste in the fishery.

ASSEMBLYMAN JACOBSON: And who is he?

MR. GILLESPIE: Mr. James McHugh is the Chairman of the Mid Atlantic Fishery Management Council.

ASSEMBLYMAN JACOBSON: Oh, I'm sorry, yeah, I didn't hear you. I thought you were talking about Congressman McHugh.

MR. GILLESPIE: No. He is one of the bureaucrats chiefly involved in the policy. What we did-- We had written to every level, at the Mid Atlantic Council level, at the Atlantic States Marine Fisheries Council level, and right up to the Secretary of Commerce opposing the plan. We even went so far as to offer an amendment to the Magnuson Act Reauthorization, a sent-to-the-Congress amendment, regarding the management of bluefish, and I would like to enter this into the record for this Assembly Committee to consider.

Specifically, the amendment says: "The Atlantic States Marine Fisheries Commission and the appropriate regional fishery management councils should:

"1) ensure that current and reliable scientific data are used to develop a management program;

"2) consider the traditional practices in the fishery by commercial and recreational fishermen from different states; and

"3) prescribe appropriate conservation and management measures which take into account variability among fisheries based on local conditions and differences in habitat quality and other relevant factors."

In the face of this, the Secretary of Commerce and the councils went ahead with this program. This amendment was

approved by the Merchant Marine and Fisheries Committee and the full Congress, and was attached to the Magnuson Act Reauthorization.

That is basically what our position is on the bluefish limit. Thank you.

ASSEMBLYMAN JACOBSON: You can enter that for the record over there with the hearing reporter. (referring to copy of Amendment to H.R. 2061 offered by Congressman Pallone)

The next witness I have written down -- I don't know if he still has any comments -- is Joe Lopresti (phonetic spelling). Joe, are you making any comment tonight, or has it all been said? (indiscernible response from audience; no microphone)

All right, why don't we hear from someone who is usually fairly understated and who isn't too emotional about things? How about Joe Pallato, President of the Asbury Park Fishing Club?

J O S E P H P A L L A T O: Hello, everyone. I am the President of the Asbury Park Fishing Club. My name is Joe Pallato. Our club is one of the oldest clubs in the country, probably the oldest club in the country. I would like to just go down on record and say, our club is wholeheartedly against any bluefish regulations as far as 10 fish go. That is basically about all I have to say.

What are they going to do about the little kids who want to catch snappers and stuff? Are they going to stop them from taking 20 or 30 of them? It's ridiculous.

Thank you. (applause)

ASSEMBLYMAN JACOBSON: Francis Bogan?

F R A N C I S B O G A N: I have a statement for the record. I am Francis Bogan. I am here on behalf of my family, which operates the largest party boat fleet in New Jersey. My family has been in the deep-sea fishing business since 1930.

In the past 10 years, our business has become more dependent on catching bluefish. If I thought a 10-bluefish

limit was necessary to protect my livelihood, I would be the first one in favor of it. However, this is not the case. Based on our catches of bluefish this past year, I would say the bluefish stocks are as healthy as ever. In the early part of the season we saw and caught many fish in the 5-pound to 12-pound class.

Presently, there are many of the one-half-pound fish along the beach and another large body of one- to three-pound fish just two to three miles offshore. With so many different year classes of fish present in a single season, I am sure that most marine biologists would agree that this is a good indication of a healthy recourse. To this day, no species of fish caught in the open ocean has ever been depleted by rod and reel; that is, recreational fishermen.

Many of the people who fish on our boats not only do so for recreation, but also for food. Many of our customers justify the expense of going fishing by the amount of fish -- food -- they bring home. A small percentage even sell their fish to defray the cost of a trip. Since fishing is not always good, our regular customers depend on that one day when they can catch and keep more than 10 fish. Ten two-pound bluefish when filleted do not represent an excessive amount.

I have already seen a decrease in our business due to confusion over the 10-fish limit. I am very thankful that the New Jersey Marine Fishery Council had the wisdom to vote against the 10-fish limit.

The current state of the resource does not warrant a 10-fish limit. A limit, if passed, will have a severe negative impact on our business. A clear example of this would be the number of passengers on the New York party boat fleet this season. New York has a state 10-fish limit. Not only should New Jersey continue to vote against the 10-fish limit, but the limit should also be removed from Federal and state waters along the entire coast.

I would like to put this statement on the record.

ASSEMBLYMAN JACOBSON: Yes, thank you very much.
(applause)

I just want to say something so that everyone will understand: There will be a transcript of this hearing made. There is a total of five Committee members on the Assembly side who deal with a lot of the fisheries' policies. This will be made available to all of them, because they all couldn't get here. It is also the record we will use when we consider bluefish regulations further.

Let me just say one other thing, too: After the hearing is over, we will keep the record open for two weeks. If anyone wants to submit any further comments for the record, our Committee Aide, Jeff Climpson, can give you the address. You may have already testified, but you may want to submit some additional information, or perhaps you don't want to speak, but just want to submit some written comments. Jeff Climpson is the man to see after the hearing is over. He is the Committee Aide for the Conservation and Natural Resources Committee.

Brian Kelly? Brian, please identify yourself for the record.

B R I A N K E L L Y: My name is Brian Kelly. I am President of the New Jersey Striped Bass Fishermen's Association.

Just to keep things short since we do have a lot of speakers, and I don't want to rehash everything that was said tonight, most of the topics that were talked about-- Ms. Leonard brought up the fallacies and the question as to the reliability of the statistics used to say that the bluefish are in jeopardy. I don't think there are too many people in this room tonight who you are going to convince that we have a problem as far as catching bluefish is concerned. The beach fishermen are catching tons of fish; the party boat people are catching tons of fish, as long as they stay within three miles.

The New Jersey Striped Bass Fishermen's Association is completely, positively opposed to a 10-Bluefish Plan in any way, shape, or form. We could not accept it with any amendments, any changes. We do not feel there is a necessity. We feel that the recreational fishermen are being unjustly penalized because of additional Federal regulations. The party boat industry is being absolutely devastated economically, a situation they have just started to rebound from after the problems the last couple of years with poor water quality and everything. We finally cleaned up the water and things are starting to look a lot better, and now once again the Federal government is coming in and imposing undue, unrealistic restrictions on New Jersey fishermen. We are absolutely dead set against it.

Thank you. (applause)

ASSEMBLYMAN JACOBSON: Thank you. Our next witness will be Robert J. Bogan, Jr. Mr. Bogan, please step right up to the microphone and identify yourself.

R O B E R T J. B O G A N, J R.: Hi: I am Robert Bogan. I have the Gambler in Point Pleasant. I was talking to guys out in the Canyon. They are catching bluefish out there, and we're catching them at the beach, and everywhere in-between, so that is not a problem.

I would like to say that nobody, commercial fishermen or sportsfishermen, should be allowed to waste any kind of fish. It's a sin, you know. If they do, they are the ones who should be penalized, not the "Joe Schmoe" who comes 200 miles to catch a few fish to bring home to his families or friends. That's not right.

My business is off 30%. Sportsfishermen and commercial fishermen should get together and elect their own officials. Why do we have these guys doing -- pencil pushers doing this for us?

That is all I wanted to say.

ASSEMBLYMAN JACOBSON: All right. I have a pencil in my hand. I don't know whether I want to use it or not. (laughter) You weren't referring to me, Mr. Bogan, were you? I hope not.

Jimmy Ventresco?

J I M M Y V E N T R E S C O: Good evening, gentlemen; also you, Mr. Jacobson.

ASSEMBLYMAN JACOBSON: There you go.

MR. VENTRESCO: My name is Jimmy Ventresco. I am a member of the Monmouth Beach Cartoppers Association in Monmouth Beach, and also an associate member of the New Jersey Striped Bass Fishermen's Association. I would like to end that tag with, a resident and voter in the State of New Jersey. Keep that in mind.

What I would like to say at this time -- just to add a little bit of a laugh, maybe, to the real intense discussions on all the dialogue that has taken place on bluefish, and certainly there has been an awful lot-- I would like to take this opportunity to shake Mr. Tom Fote's hand and to congratulate him on his recovery from the brain surgery work. It was really excellent. I liked your pitch today. If you can get that movement going with the stripers and everything else, we'll have a hell of a man on the Council there.

The issue is more than 10 bluefish -- there ain't no doubt about it -- when you, as citizens of this State, start realizing what the power of the vote is, and what the mass of collective bargaining and presentation means in front of your legislators. I am glad to see you all here tonight. That is a good voter show when it comes to sportsfishermen.

These bureaucratic agencies, like the Atlantic States Marine Fishery Commission, and so on, do not respond to the needs of the people. Keep that in mind. The fact is -- and it was presented well here tonight -- bluefish stocks are in great supply, in the Canyon and inshore, and all the way in-between. That was a good statement you made there.

If it is conservation we are talking about here, then someone has to start operating on my brain, because I can't understand conservation when you limit the recreational fishermen and you increase the commercial tonnage. That is beyond my belief and understanding.

These proposed bluefish regulations would not fly if we, the voters, had the opportunity to put it on a referendum, or on the ballot -- this particular plan. I want to ask you: If you had the opportunity now, and what was your belief up until now, by a raise of hands or a resounding noise, are you in favor of this plan? (negative response from audience) You are, evidently. That was a very weak, "No."

Let's hear it again: It's, "No, I'm against it." Okay? We're against this plan. These fellows behind us understand it, and they know it. Our New Jersey charter and party boat businesses, as mentioned, are suffering. They are taxed, and this is enough. We say, "No," to more taxes. We say, "No," to more fees. We say, "No," to more permits. And we say, "No," to any saltwater license. All these issues are intertwined with another thrust they are putting at us on bluefish, and the answer is, "No." And you say it loud, and you say it clear, and you make sure they understand it.

What is the slogan in the State of New Jersey going to be: "New Jersey and You, Perfect Together"? That was a good one. It took us quite a ways for quite a few years. Are we going to enter into a new one: "Don't get caught in New Jersey. It's too costly"? That's a hell of a bumper sticker. Let's defeat this plan.

Can you imagine, and it was only briefly mentioned here -- and we are going through it at the present time -- the way the economy will go if this plan is passed? What a loss of revenue from the sportsmen from all the surrounding states and as far away as the West Coast in California, from people who come here to the greatest fishing State in the Union. And we

want permits and regulations and fees, and don't catch this, and catch this quantity? What are we, nuts? We're cutting our own throats.

When we lose that revenue, the government has to come into our pockets to get it back in the form of taxes.

ASSEMBLYMAN JACOBSON: Jim, Jim, please, no talk of taxes today. (laughter) Please stick with the bluefish.

MR. VENTRESCO: I don't want to. I'll stick with the bluefish.

So, we support Dan Jacobson, Mr. John Villapiano, and assuredly the United Boatmen. We hope you guys will succeed. We are behind you. So, just say, "No," to this Bluefish Plan, and give these guys your support.

Thanks a lot. (applause)

ASSEMBLYMAN JACOBSON: We have two more witnesses, and then I will have a couple of quick questions for the Federal representatives, and that will be about it. We will try to wrap it up fairly quickly. I don't want to go until too late.

The next witness will be Dominic Patrano, who is also a commercial fisherman. Dominic, please step right up to the mike and identify yourself. I know you have been anxious to speak.

D O M I N I C P A T R A N O: My name is Dominic Patrano. I am a gill netter out of Shark River. I heard about the ghost gill nets. I don't know where he went -- the guy with the suspenders.

ASSEMBLYMAN JACOBSON: Don't worry, just give your comments. We will listen to everything.

MR. PATRANO: I have been in this business since '76 -- gill netting. I have never left a gill net out in the ocean -- never. I know of no other commercial gill netters who have ever done that in this area. You talk about Maine. I don't know what Maine does. But financially, it is not-- You can't do it. I mean, I don't know how they can say it.

They did a survey-- I think Jacques Cousteau did a thing with a submarine, one of those mini subs, or whatever it was, looking for ghost gill nets. They found, I think, one, out of all the codfish grounds where supposedly all these ghost gill nets are. He talked about waste in the commercial fishery business. I have never thrown away a bluefish, never.

Now, I don't how many of you other people, you charter or party boat people, can say that same thing. I know you can't, because I was a party boat fisherman. I worked on party boats for many a year. I have never thrown away a fish. I know of no other commercial fisherman locally who has -- a bluefish.

ASSEMBLYMAN JACOBSON: Dominic, I noticed when they were talking about the waste, you said, "I wouldn't be throwing away money."

MR. PATRANO: Well, that is what it is. In order to get a bluefish out of the net, I would have to pick him out by hand. I would have to grab him and take him out and throw him in the boat. Then when I got to the dock, I would have to put him in a box. If I am throwing him back, I'm working for nothing. That is what it amounts to; that is exactly what it amounts to. I am not for the 10-fish limit. I don't see where the Federal government should be in anything, as far as I am concerned, but that is personal. I just wanted to clear up about the gill nets.

ASSEMBLYMAN JACOBSON: Thank you. Thank you very much. (applause)

Sherman Nelson? Does anyone else desire to speak?
(no response)

S H E R M A N N E L S O N: Hi: I am Sherman Nelson. I guess I am just the private citizen everybody keeps talking about. I don't belong to any group, committee, or whatever. I have fished with Dave a couple of times. Unfortunately, not this year, Dave, because they sort of shut us down.

New Jersey State Library

I am 58 years old, and I have lived on the Jersey shore all my life, and I have fished since I was four or five years old. And, to the best of my knowledge, I never sold a bluefish and I have never wasted one. I have hauled a lot of them home and given them to friends, relatives, neighbors, and whatever, but I have never thrown them away, and I don't sell them. When I went fishing this year, I brought home what I caught, and I did the same thing with them. I am not going on a charter boat because if you guys have to haul me out past the three-mile limit, then I can't bring home enough to make it worthwhile and justify what it costs.

Now, you know, I earn a good living. I don't need the \$2 or \$3 I could make playing with the fish. But I do need to bring the fish home to justify the trip. For the guys who are the commercial fishermen-- I come from about 10 generations of commercial fishermen. In fact, the better portion of my relatives -- who, by the way, are in North Carolina -- are commercial fishermen now. I certainly don't want to limit their ability to earn a living. I design medical devices for a living, and I don't think I would want anybody to do it for fun and limit my ability to earn a living doing it, so I am not going to ask a commercial fisherman to limit his living so that I can catch fish for fun. That really doesn't make sense either.

Thank you. (applause)

ASSEMBLYMAN JACOBSON: Rhonda Leonard wants to make one more quick point, which is a good point to make, and that will be it. Rhonda, why don't you make the point you wanted to make?

MS. LEONARD: In listening to the fellow in the green -- and, of course, I know Dominic from many years ago; in fact, he may have worked on one of our boats years ago-- I think the fellow in the green is putting himself commercial and the party charter industry recreational. There is a class in here which

I think is very important to define, and I think Dominic could go along with that. The people who work for me, who derive their income solely from the ability of my boats to be able to sail to catch fish, are, in a sense, commercialmen. The crew which works for me -- and they do sell their fish-- If the fellow in the green had come to all the meetings, he would have heard me previously testify to that; that my crew has to sell their fish. They clean the fish; they make a living from it. This is part of it. If he also would come down to my boat, he will hear me adamantly tell my customers that they are not allowed to stand on my dock and sell fish. Dominic can attest to that. It doesn't happen.

Do they receive fish as a gratuity from customers aboard the boat? Absolutely. This is part of the way the crew makes their living. They are, in the truest sense, commercialmen. They are entitled to make their living this way -- period. This would affect them in a ripple sense, as we have said before.

I employ 15 deckhands and five captains. All right? They have to make a living, and they do it by selling fish, by getting a salary, by cleaning fish and getting a gratuity. This is how they do it. If they cannot sell their fish, if they cannot be in possession of more than 10, it greatly affects their ability to earn their living, the same as it does you.

ASSEMBLYMAN JACOBSON: Thank you, Rhonda.

I just want to again thank the representatives from the Federal government for coming. I know that I, for one, have often gotten very frustrated with the Federal authorities, particularly on the striped bass issue, but again, keep in mind, we are a State Committee. We don't have jurisdiction over them. They did come voluntarily and cooperatively, and I think we should all appreciate that.

John, I just have a few more questions for you, if I may: The issue about the waste has come up, with the commercial and the recreational. I have heard some very large figures thrown about. Pat Gillespie from Congressman Pallone's Office testified that James McHugh says there is really no effective way to talk about waste, or to get a gauge on waste, which is obviously central to part of these regulations. Could you comment on the whole -- what you found with waste, how you find it? Can you address that at all?

MR. BRYSON: There was a large concern early in the plan process by some members regarding waste. That is not the prime reason the management plan went into effect at all. It is one of the management objectives to reduce waste. There have been considerable reports, and as Mr. McHugh answered Mr. Pallone, I think correctly, there is no way to document this-- Your own State people have reported that trash cans further away from the docks had progressively less bluefish at times. There have been other states, at times, when the bluefish were extremely plentiful. I don't think you will find that right now.

But there has been some waste, but that is not the principal reason the plan was written. The plan was written because the fishery is overfished. In order to -- whatever may help you-- Let me leave you with, one, a copy of the plan, if you don't have it, and two, a copy of the Magnuson Act, but turn to section 301, the National Standards for Fish and Management Conservation, which leaves out the seven national standards which any plan must meet.

Now, we are being challenged on all those measures. The U.S. Court will render its decision in due time, so you will have some input from a much higher level than we are as to whether or not we complied with the law.

ASSEMBLYMAN JACOBSON: One more question: Les Layton testified that given the way the permits are going to be given

out, or the exceptions are going to be given out-- He maintained that as far as the commercial quota, a portion of that is actually going to go to people who are not catching fish and selling them for a living. Obviously, Rhonda Leonard made a good point that the people who she is including -- her deckhands and her other people, her employees, who are also doing it for money, versus the recreational person-- What about Les' comments about that? I mean, is part of the commercial quota you need from noncommercial people, and to what extent do you--

MR. BRYSON: Yes. Well, it is hard to say. I can't give you exact figures. In the past, the way the data had been collected, if people say their principal reason for taking the trip was recreational, it counted against recreational fisheries, even though we do know a lot of fish have been sold to restaurants by individuals -- and fish markets. In fact, there was a sting operation down in Delaware here two or three weeks ago for that, because they now have to have a license to sell and a few people didn't even bother getting those.

So, it is a practice that has been going-- I don't know how much-- We won't know until we see some more figures. One way we hoped to get some valid points is by how many people apply for the exemption in order to sell, but if people again are thwarting that in order to take more as recreational fishermen, then that will not give us the measure we hoped it would.

ASSEMBLYMAN JACOBSON: Are there any more questions at all? Joe?

ASSEMBLYMAN MECCA: No.

ASSEMBLYMAN JACOBSON: All right. I just have one more quick one for Ray Bogan. Is Ray back there? (affirmative response from audience) Ray, why don't you come up, and this will be the last question?

Just tell me the basis of the suit -- your basic allegations or assertions? Just tell me point by point what you are alleging.

MR. RAY BOGAN: The premise to the suit-- There are several counts in the suit, but to tie in with what has gone on here tonight, I will put forth the primary basis of it, besides an equal protection violation, which Dave Bramhall has already expressed regarding the treatment of commercial fishermen vis-a-vis the recreational fishermen.

One of the most important things that John Bryson just mentioned was the national standards. Of the seven national standards, in my opinion -- and we have alleged this in the complaint -- several of them have been violated by this Bluefish Management Plan. In particular, there is a thing called "optimum yield," which is very, very important, and there are several factors which go into optimum yield. In a nutshell, they violated the very heart of the optimum yield requirement.

As for the equal protection and due process arguments, they are constitutional arguments which, in essence, state that the recreational fishermen, as party boatmen and charter boatmen are, are unequally and inequitably treated in light of the regulations. We also say there is an arbitrary and capricious violation of the Administrative Procedure Act, in particular by the information they had to implement these plans, what they put towards these plans, and the way they treated all that information and put it into regulation. We say that was totally arbitrary and capricious. That is the essence of it.

ASSEMBLYMAN JACOBSON: Thank you very much.

All right, that will conclude the testimony. We will now have some closing statements. My colleague, John Villapiano.

ASSEMBLYMAN VILLAPIANO: Thank you, Mr. Chairman. Once again you have done a beautiful job chairing a hearing. I really feel that the testimony presented tonight was very, very fair. I think it was very enlightening on both sides. I certainly appreciate the fact that so many people came out to address this, and I appreciate the fact that the commercial fishermen were here tonight to speak on their own behalf, and on behalf of the fisheries themselves.

I would like to repeat something I said in my opening statement, and that is: I feel that New Jersey sport anglers have always willingly participated in conservation methods when, and if, a particular species has been in danger. I stand by that statement, and I believe from hearing the testimony tonight, Mr. Chairman, that that certainly rings true.

Mr. Bryson mentioned that the plan was written because the fishery has been overfished. I believe the number of landings and the number of catches we have had throughout the summer do not necessarily justify the fact that the fishery is overfished. If, in fact, that was the case, I still can't justify in my mind how one aspect of the fishing would get an increase in flow and that one would get a decrease.

I believe in this particular case that the recreational fishermen are not receiving equal treatment, and I will stand by the bill as presented, along with you as the co-sponsor, Assemblyman Jacobson, and Assemblyman John Paul Doyle. I will stand by the bill, and will continue to support the bill and push for its passage in the Assembly.

Thank you. (applause)

ASSEMBLYMAN JACOBSON: Our next closing comment will be from Assemblyman Joseph Mecca, from Passaic, who is fast becoming an expert on fishery issues.

ASSEMBLYMAN MECCA: Thank you.

ASSEMBLYMAN JACOBSON: They have a lot of fish in the Passaic River, don't they, but it is more freshwater, though, right?

ASSEMBLYMAN MECCA: Yes. There isn't an ocean in our district. They come from Essex and Passaic County.

Again, I thank Assemblyman Dan Jacobson and John Villapiano for having me down as their guest. I serve on the Committee. You know, it is important that we take this message back to all those who are from non-shoreline districts, too. This is not just a coastal issue. It is an issue that affects all New Jerseyans. It is important to us that both the recreational and sportfishing industries, or business, and the commercial industry, remain healthy in this State.

It is with that in mind that I came down here to listen to you. I am beginning to recognize the faces. But, there are some very different and critical issues we face. We will take the message back to Trenton to those on our Committee who are not here, and back to our associates in the Legislature, tell them what we have heard, supply the transcript of this hearing and all that you have submitted, to make sure they understand what the issues are down here.

I thank you again for having us here as your guests. I can assure you that I will be back -- I hope I will be back -- to listen again. Thank you. (applause)

ASSEMBLYMAN JACOBSON: I just want to make a statement also: I just want to thank everyone for coming out, particularly the people from the charter boats, party boats, commercial fishermen, and various other fishermen, private citizens, and particularly the officials from the Federal government. I think it has really been a benefit to have you. You have been very, very cooperative. It is also nice for people to see you face to face and to be able to thrash these things out and see what is going on. So I have a special thank you for all of you gentlemen, and Bruce Freeman, of course, for coming, too.

Just a couple of points: This is now the third public hearing we have had on the fisheries issue. We had one on the

menhaden; we had one on the proposal to have a license to sell fish. Now this is the third, and I think they have gotten better and better as we had them, and even more informative. They have all been very good. This, again, is part of the continuing step of my commitment as Vice Chairman of this Committee, to turn it into a forceful advocate for the State's fishermen. I think it will be a nice addition, as well as the regular councils we have, to have elected officials and legislators very active and using the power we have to have hearings and perhaps pass legislation to make sure that the rights of fishermen are heard by both the State and Federal governments.

In particular, I have been on record, obviously, with the striped bass, as being very disappointed with the Federal regulations and very concerned about what happens when all the different interests along the coast of the United States get together and draft regulations. I have been very concerned about New Jersey being on the short end of the stick on regulations.

Bluefish is a very, very touchy subject for a couple of reasons: Obviously, it is very, very critical to both recreational and commercial fishermen, to their livelihoods, those in the recreational fisheries, that is party and charter boats, and the bait and tackle people also. It is critical to their livelihoods. It is a big fishery to these people.

In addition, as the testimony brought out, most of the fish are caught right here in our area. We are really, as I said, in the hot spot of the whole issue. The thing that I want to get out of this Committee hearing -- and again, we are talking about Federal regulations, and we are a State body -- is what can the State government do about it? What is the State's role? Frankly, I didn't know if we would have a role. But one of my biggest concerns now -- and we have gone back and forth on waste, and it is hard to prove-- I am very, very

concerned about something that came out in terms of within the three-mile limit.

Now, it sounds as if the Federal government does not have imminent plans to come in and implement a 10-bluefish limit within the three-mile limit. But it seems fairly clear that unless the United Boatmen suit prevails on their so-called concept of preemption, which is saying to the Federal government, "You can't come into our waters," which is a very hard case to make-- Unless the United Boatmen prevail, the Federal government can come into the three-mile limit if they choose, if they do not like the way things have happened along the rest of the coast, and implement a plan on bluefish.

That is of great concern to me. I think what I would like to see done on that is-- I think now the State is going to have to get very aggressive at this point to make sure that that doesn't happen, and that we keep our control within the three-mile limit. In line with that, I am going to be talking to administration officials, particularly to the people in the Governor's Counsel's Office -- to the Governor's lawyers -- as well as to the people in the Division of Fish and Game in connection with this hearing, to discuss a strategy to make sure that we preserve our control in the three-mile limit. That could include joining a lawsuit or having our own lawsuit. That could include very, very active statements, or even more activism by the Marine Fisheries Council. That could also include the Governor, hopefully getting in touch with Federal fisheries officials and working through our State congressional delegation.

At this point, again, I have to concentrate, as a State official, on what I can do. Congressman Pallone has made his stance clear. I, again, am just very, very leery, although they may be very well-intentioned and well-thought-out, of increasing Federal regulations. I have just not seen it working on other species. I am going to pledge that I am going

to do all I can to make sure that the State, within its three-mile limit, preserves its control. I hope it doesn't come to that. The indications seem to be that I don't think the Federal government will be coming in, but I think we should be starting early to make sure that that does not happen. That, to me, is what I got most out of the hearing, and that is where I am going to be going from here -- to really work on that three-mile limit, which is, again, our responsibility.

So, thank you very much for coming. We will have other hearings. Again, I hope they will be as productive and as informative as this one.

We are adjourned.

(HEARING CONCLUDED)

APPENDIX

AMENDMENT TO H.R. 2061
(MAGNUSON ACT REAUTHORIZATION)

OFFERED BY MR. PALLONE
APPROVED BY THE MERCHANT MARINE AND FISHERIES COMMITTEE
OCTOBER 5, 1989

Title V of H.R. 2061 is amended by adding a new section at the end as follows:

"Sec. SENSE OF THE CONGRESS REGARDING THE MANAGEMENT OF BLUEFISH

It is the sense of the Congress that in developing a management plan for the Atlantic bluefish the Atlantic States Marine Fisheries Commission and the appropriate Regional Fishery Management Councils should --

- 1) ensure that current and reliable scientific data are used to develop a management program;
- 2) consider the traditional practices in the fishery by commercial and recreational fishermen from different states; and
- 3) prescribe appropriate conservation and management measures which take into account variability among fisheries based on local conditions and differences in habitat quality and other relevant factors."

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CAPT. HOWARD BOGAN JR.

PHONES: (201) 528-5014 or 8377

I am Francis Bogan. I am here on behalf of my family which own and operate the largest fleet of party boats in New Jersey. My family has been in the Deep Sea Fishing business since 1930.

In the past 10 years our business has become more dependent on catching bluefish. If I thought a ten bluefish limit was necessary to protect my livelihood I would be the first one in favor.

However this is not the case. Based on our catches of bluefish this past year I would say the bluefish stocks are as healthy as ever.

In the early part of the season we saw and caught many fish in the 5 lb to 12 lb class.

Presently there are many of the 1/2 lb to 1 lb fish along the beach and another large body of 1 lb to 3 lb fish just 2 to 3 miles offshore. With so many different year classes of fish present in a single season I am sure that most marine biologist would agree that this is a good indication of a healthy resource.

To this day no species of fish caught in the open ocean has ever been depleted by rod and reel (recreation) fishermen. The only threat to bluefish stocks would be a natural disaster or heavy commercial fishing with nets.

Many of the people who fish on our fleet of boats not only do so for recreation but also for food. Many of my customers justify the expense of going fishing by the amount of fish (food) they bring home. A small percentage even sell their fish, to defray the cost of a trip. Since fishing is not always good our regular customers depend on that one day when they can catch and keep more than 10 fish. Ten 2 lb. bluefish when filleted does not represent an excessive amount.

I have already seen a decrease in business do to confusion over the 10 fish limit.

I am very thankful that the New Jersey Marine Fishery Council had the wisdom to vote against the 10 fish limit.

The current state of the resource does not warrant a ten fish limit. A limit, if passed, will have a severe negative impact on our business. A clear example of this would be the number of passengers on the New York party boat fleet this season. (New York has a state 10 fish limit) Not only should New Jersey continue to vote against the 10 fish limit but the limit should also be removed from Federal and State waters along the entire coast.

Captain Frances Bogan

Captain Howard Bogan

Day & Night Blue Fishing - Cod - Pollock - Tilefish - Mackerel - Whiting - Sailing Everyday, Every Night - All Year Round

2X

Written Testimony
by Assemblywoman Joann H. Smith
to the Assembly Conservation
and Natural Resources Committee
on the State response
to the federal bluefish management plan
and implementing regulations

Monday, August 13, 1990
Belmar, New Jersey

Thank you, Mr. Chairman, for allowing me to state my viewpoint concerning the importance of the bluefish to the people of New Jersey and to others along the East Coast.

As you know, I represent the people of the Bayshore area of New Jersey in District 13. We are a diverse group but are united in our belief that every fishing enthusiast has a right to practice his or her sport with minimum government interference. But we equally believe that as with any finite resource, we must exercise careful management and in some cases, restraint, to assure that future generations have equal access to the same quality of life pursuits we currently enjoy today. And certainly, fishing for blues is one of these areas.

The first salt water fishing experience of every New Jersey child at the Bayshore and elsewhere along our magnificent coastal waters usually involves the catching of snapper blues, the smallest class of bluefish, at its earliest stages of development. Although small in size, usually no larger than a foot or so in length, these immature blues still provide an angler with all the thrills of its older siblings as man, or in this case, child and fish put each other to the test.

Such joy of fishing and our environmental concerns must begin, therefore, with the snapper blues. Long before federal interests are recognized, we must realize that New Jersey has a strong and legitimate stake in protecting and promoting its bluefishing interests, and to be successful in this pursuit, we must begin with the youngest in its growth chain.

If we wish to see the snapper blues along our wetlands and tidal creeks prosper and pass from the taylor blue stages found in our bays into the choppers that surf sportsmen love to do battle with, and ultimately mature into the slammers eagerly awaited by head boat anglers off our coast, we must exercise common sense and rational self-control, much in the same manner as the original caretakers of our area, the American Indian. We can still learn much from the Indians, if we are only willing to do so.

The Indian never took more from nature than what was needed. And the Indian was considerate of the environment, leaving very little behind to ever indicate he had passed that way.

We must learn, once more, to behave a little bit more like the Indian.

4X

The federal guidelines limiting anglers to 10 bluefish a day caught beyond the 3-mile coastal zone is practical from a national point of view. As the most sought after salt water game fish along our coastal waters, prudent management on a federal level holds all states to equal constraints. No one state can gorge itself and its tourism industry to the distress of others in its pursuit of the migratory bluefish.

Anglers who are true sportsmen support the sanctions, realizing that 10 slammers on one day's activity is more than sufficient to register satisfaction of a hard day's work on our blue waters. The same can be said of head boat captains, competing with one another for customers. Any true sportsman is likewise a conservationist. All realize that natural resources are finite, not infinite. It is only the greedy or self-serving that believe or act otherwise.

Returning to the youngest anglers and first experiences with snapper blues, almost every father, grandpa or perhaps older brother who originally helped a youngster bait a hook and watched with delight the landing of the first catches, also encouraged the young angler to release the snapper back to the freedoms of the tides, usually with the encouraging words of

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"You'll feel better about it, when in two or three years, you catch him again, only this time weighing 25 pounds."

And that is perhaps where we are, here, now, in New Jersey. We have to decide if it is time to act as the authority figure, and encourage by regulation those controls we believe to be prudent and necessary to assure that future generations of youngsters will be able to return one day from an outing at sea with 10 slammers, each weighing upwards of 20 pounds.

Most sportfishingmen believe that there is no crisis right now among the numbers of mature bluefish along our coast in federal waters. But there is growing concern among many that the numbers of snapper blues and taylor blues within our New Jersey bays have substantially decreased during the past few years. There is concern that some of our head boats, which advertise that they will fish only within the 3-mile zone, thus allowing anglers to bag as many blues as possible, will ultimately hurt the bluefish balance of nature.

Most head boat captains are sportsmen and businessmen. And as any businessman knows, you don't let the inventory run down or disappear. And, our inventory of immature bluefish is every bit as important to the future employment of our head boat operators, their mates and others dependent upon tourism for their employment as are the canned goods in the backroom to the grocer. You need to take care of your stock.

Mr. Chairman, short term gains, fueled by a greedy few, must not be allowed to dictate our actions today. We must squarely face this issue and prudently elect to manage our State's bluefish industry with the same intelligence of our State's original caretakers and take no more of what nature provides us than what we can use.

The State has ample experience in managing other marine species. For example, as local conditions dictate, the hard clam industry has seen its operations expand or condense, interdependent upon how well we manage our coastal runoffs and discharges into sensitive estuaries and bay bottoms. Similarly, we must use such expertise as now exists within our Department of Environmental Protection to study the situation of declining stocks of immature bluefish, much as we did to halt the decline of our fluke stock.

We must encourage the sharing of such information with neighboring coastal states, such as Maryland which has an aggressive state management plan for bluefish, in an attempt to see if this phenomenon is short or long term. And, as with our shellfish industry, we can increase or decrease, enlarge or condense our harvesting of this favorite species of game fish.

If we are successful in our actions, future generations of anglers will continue to experience one of the most classic battles nature can provide between a person a pole and a fish and we will all benefit. If we fail or allow special interests to curtail what we know we must do, then certainly a day will arrive when the bluefish will cease to race and run along our shores.