

The Gulf States Marine Fisheries Commission and the Menhaden Fishery

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I have been asked to explain some of the actions of the Menhaden Sub-Committee and some of the action that was taken with respect to a particular study made by the Sea Grant Section of the Louisiana State University Law School. There has been some misunderstanding of the Sub-Committee, the way it was organized and its purpose. To clarify that, I would like to explain how the Gulf States Marine Fisheries Commission operates and, particularly, how the Commission's Technical Committees operate and their relative authority.

The Gulf States Marine Fisheries Commission is a compact established by action of the states through their legislatures and was ratified by Congress. It is an official compact allowing states to act in unison. Moreover, this law designates the National Marine Fisheries Service as the Technical Advisor to the Gulf States Marine Fisheries Commission; so, any action or interaction we have with the National Marine Fisheries Service is not an accident. It is on purpose and it is legal and we invite their participation. As a matter of fact, they are a part of this Commission and they have always been part of it.

From the beginning it became clear to everybody that the Commission would be required to operate on two levels, an executive level where the administrators would make some decisions for the states and attempt to coordinate the activities of the states; and on a technical level, where the scientists who were dealing with the raw data from the field would try to interpret this and transmit recommendations to the executive or administrative section in a manner that they could use. Over the years, we have had various committees attempting to do just this. There have been an oyster research committee, a shrimp research committee, an estuarine committee and others. The committee that has been most active in recent years is called the Technical Coordinating Committee.

The Technical Coordinating Committee is a non-regulatory body chaired by Dr. Ted Ford. It consists of members from each state and members of the National Marine Fisheries Service. We discussed a wide variety of natural resource problems including the needs of the various states and how they could best be coordinated. When committee members reach a consensus we prepare a resolution or, in other ways inform the Executive Committee of our decision. If the Executive Committee agrees, they may take direct action, report it back to the states for consideration, send it to Congress or refer it to the National Marine Fisheries Service for consideration.

Basically we examine the needs for research, the gaps in our knowledge and recommend research procedures. We have not accomplished very much with management in the past, because we find it difficult to get enough data to

recommend area-wide type of management even in some of the things that have been studied a great deal.

We also become involved and examine the research programs of the National Marine Fisheries Service, particularly at their Gulf Laboratories. We try to ensure that these programs complement the work conducted by the states so that money or time is not wasted. We try to get something done that makes some sense.

We meet twice a year giving us an opportunity to interface at a technical level and at an administrative level with the National Marine Fisheries people from this region and from Washington.

The Technical Coordinating Committee of the Gulf States is large and it undertakes a variety of activities. From time to time certain problems require special attention. For example, there is a dredging sub-committee studying problems associated with dredging in marshlands and estuaries. We had a sub-committee that coordinated the production of a cooperative film that was funded by various Gulf states and the federal government. There was a sub-committee that dealt with a cooperative estuarine inventory, which I think has been one of the better pieces of research that has been completed in the Gulf, and, maybe in the country, in recent years.

Recently the Technical Coordinating Committee decided a sub-committee was needed to evaluate menhaden. I was appointed Chairman of this menhaden sub-committee. This sub-committee has met only once. It was an organizational meeting. We were supposed to have a second meeting in October 1973 in Matamoros, Mexico, that was not realized. In the first meeting we appointed a menhaden industry study committee composed of members from each state in the Gulf. These members are technical people, generally. The committee also includes, since they are officially a part of the Gulf States Marine Fisheries Commission, members from the National Marine Fisheries Service, who are biologists and economists. We have an agreement with NMFS Southeastern Region that anybody else we need can be made available to this committee for consultation. So, if we find a need for particular advice or information, we can obtain the necessary experts.

I would like to re-emphasize that this Committee was not formed by any one person but through the regular operating procedures of the Gulf States Marine Fisheries Commission and functions under the Technical Coordinating Committee. Its establishment had nothing to do with the Federal-State Management Program. It had nothing to do with any proposed legislation. It was a simple matter of our belief that we needed to examine the menhaden fishery and see if we could develop enough data to recommend to the states and to the industry, some time in the future, procedures which might preserve or improve the industry.

This is exactly what similar committees have done in every other case and this menhaden committee will continue to act until such time as there is no further need. It is not an attempt by anyone to dictate to the industry. As a matter of fact, the issue that prompted formation of this committee was an action of the industry itself. The industry in Louisiana had reached agreement that they

needed, as Mr. Styron pointed out, some type of coordination of fishing operations and they presented to the Louisiana Fish and Wildlife Commission, the proposition that we attempt to establish a fishing season.

We did not know the period the season ought to include. Industry presented information they had and we proceeded to act under the law in Louisiana, which allows the Wildlife and Fisheries Commission, through an Executive Order, to set such regulations. Action was withheld for a month in case there was any opposition. We have a big advantage in Louisiana because of some flexibility in setting fishery regulations. A menhaden fishing season was set, but there is absolutely nothing to prevent us from changing it next month, or two months from now if somebody comes forth and presents the proper data to indicate the season is unwise. If the data show that a mistake has been made the fishing season can be changed within 30 days.

The fact that the menhaden industry had come forth and asked for guidance indicated to the Technical Committee that such a fishing season regulation might be suitable for other states.

At the initial meeting of the Technical Committee, we organized the committee, selected the members and assigned them to the various positions. We determined a need for technical help from the federal people and we are receiving their assistance. We, then, explained the fishing season regulation set in Louisiana and we examined current technical information. It became obvious immediately that we did not have enough information to start any massive regulatory procedures. Discussion was more about the gaps in the knowledge and the unknown points and the things we would like to aim towards, rather than the evaluation of the data itself. We had some information from the economic section of NMFS indicating possibilities for application to management and NMFS has been kind enough to start further studies in this direction.

Assistance was requested in evaluating the action that was taken in Louisiana to determine whether these particular opening and closing dates of the season were worthwhile. After evaluation, if it is not worthwhile, I believe the Committee will recommend that the season be changed or discarded. I think this is the only way that we can operate.

In these discussions, it became obvious if we were going to try to operate on this basis, then we would have to be able to reach some agreement between the states and among the states. From time to time Louisiana and other southern states have tried to establish reciprocal actions or agreements at state lines, but not particularly for menhaden. There are agreements for shrimp; we have agreements on the Toledo Bend reservoir for fresh water fish and for hunting problems. We have always believed that it would be advantageous to the Gulf states to have some type of uniform reciprocal arrangement so that when action was required, the people at the level of the state administrators and the technical level could meet and arrive at some answer to a sticky situation and decide a simple way of handling it.

When we began to look at some of the problems associated with menhaden regulations, we found that some states did not have any regulations, some could make temporary regulations like Louisiana and others required legislation. In

some instances the state Fish Commission could take action and in other instances counties were involved – so this became a major problem. If we ever reached the position of making recommendations what good would it do if some of the various states could not accommodate to it. There NMFS offered financial assistance to study the legal implications of reciprocal agreements and state interactions. The Committee accepted this money and had the LSU Law School, through its Sea Grant Program, accept a small contract to conduct a legal study.

As Chairman of the Committee, I emphasized to the NMFS and to LSU that the study should be broader than just menhaden. A reciprocal study should examine the reciprocal problems that existed in all Gulf coastal states.

Gary Knight has made a rather comprehensive study and it has been published. He points out that true reciprocal agreements between states, in the legal sense, must be ratified by Congress, like an interstate compact. If this is the case, then this is not what we need in the Gulf. What we wanted was regulatory flexibility like we have in Louisiana. We would like to find out how other states could be given the authority to take short term action or make a regulation through commission action. We need a great deal of flexibility to try some management procedure that might be significant. The idea being that the minute a management procedure was set up, it would be subjected to evaluation by qualified people. After due study and evaluation, if the particular regulation appeared to be valid and it could be justified both biologically and economically, then it would be assumed that the states would have enough wisdom to accept it and make it a uniform regulation.

It is also recognized that a good regulation in Louisiana may not be good down at Key West or over at Brownsville, so there should be enough flexibility to allow for a certain amount of variation in the regulations. The flexibility should also be there to allow for us to correct mistakes.

What we are simply saying here is that the Menhaden Subcommittee is simply a technical committee that is trying to advise and help the industry and the state management agencies. We will take advantage of every bit of technical information we can get our hands on to assist us.

The Subcommittee is an open committee. Every time it meets anyone that wants to come is welcome. We particularly would like to see representatives from the industry there and they can stand up and have their input. What we are trying to do is set a season or take other action that preserves the industry and keeps it in a healthy profitable condition.