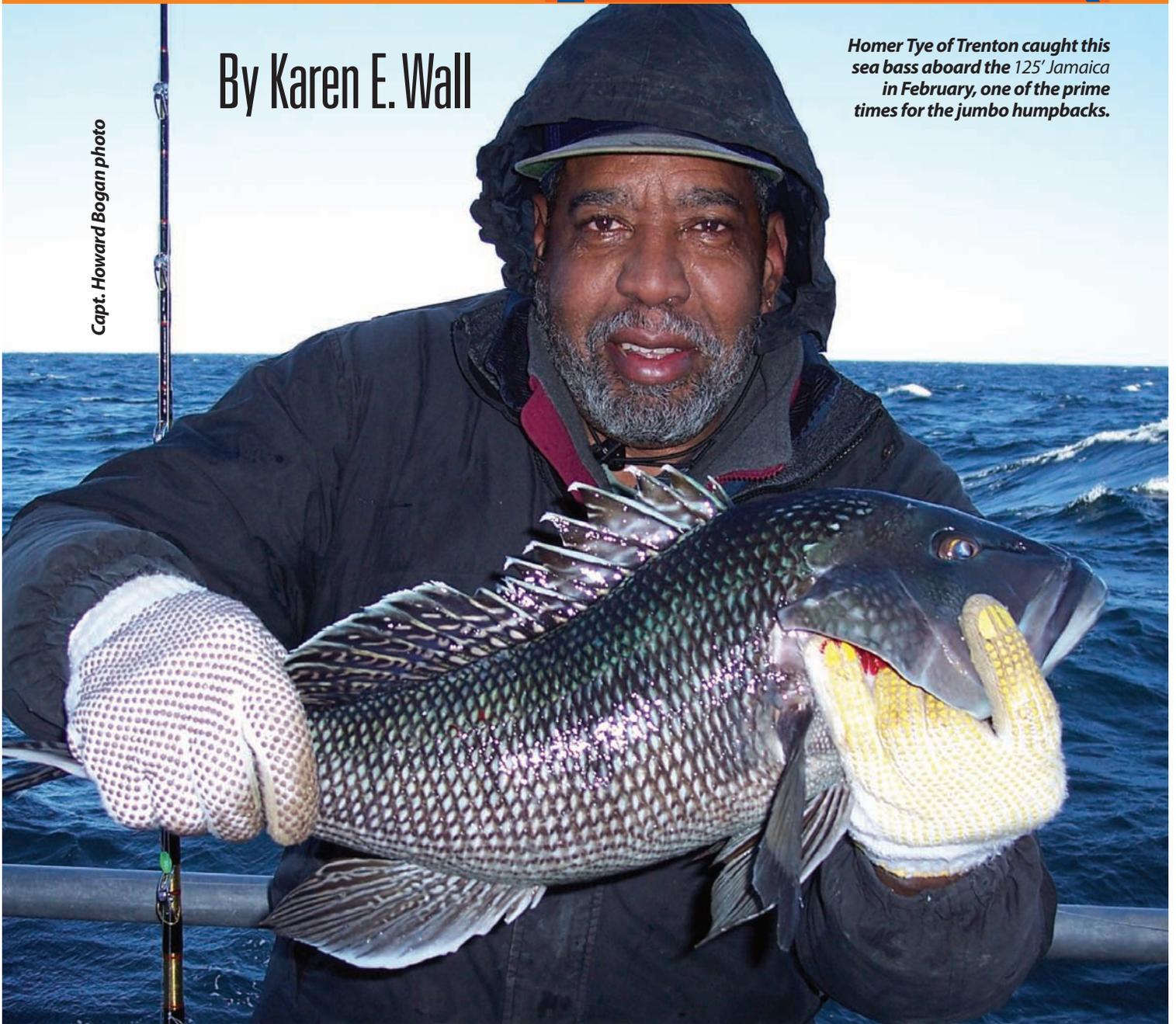


By Karen E. Wall

Capt. Howard Bogan photo

*Homer Tye of Trenton caught this sea bass aboard the 125' Jamaica in February, one of the prime times for the jumbo humpbacks.*



SIX-MONTH SENTENCE:

# NOAA Shuts Down Sea Bass

*NOAA finally reveals its punitive side with a closure that could cripple a struggling industry.*

"We consider it to be one of our options."

That was the response Patricia Kurkul, Northeast Regional Administrator for NOAA Fisheries, gave on September 1 when asked whether NOAA would close down the sea bass fishery if the Atlantic States Marine Fisheries

Commission did not act during an emergency conference call on the fishery. NOAA has threatened closures in the past, but they haven't occurred – for a variety of reasons. So there were some who believed nothing would happen this time either.

But after years of saber-rattling, NOAA made good on its threat, shutting down the recreational sea bass fishery for 180 days beginning Monday, October 5, a closure that will deeply wound an industry that's been weakened from treading water with summer flounder for so long.

## WHY THE CLOSURE?

When the ASMFC's Summer Flounder, Sea Bass and Scup Board met via conference call on September 1 to consider an emergency closure of the sea bass fishery, it was in response to information the board received at the commission's August meeting that indicated significant landings of black sea bass in the first six months of 2009.

The data – produced by the dreaded Marine Recreational Fishery Statistics Survey – indicated that the recreational sector was on pace to overfish its 50 percent share of the sea bass quota by anywhere from 86 percent to 165 percent.

The Board was clearly reluctant to close the fishery from the start of the call, because it was Kurkul who had to second the motion by Virginia representative Jack Travelstead that proposed a September 30 closure of the fishery – a motion that was then defeated with seven states voting against the closure.

Kurkul twice cautioned the board before the vote that NOAA would be considering its options if it was unhappy with the decision. She has repeatedly pressed the ASMFC and the Mid-Atlantic Fishery Management Council for tighter restrictions on sea bass.

In the past, when Kurkul has hinted or openly stated that a closure was possible, particularly with regard to summer flounder, there was such a backlash that NOAA backed off from the threat. This time around, the cards were all in her favor: A sympathetic administrator, a species with a lower profile and an uncharacteristically swift-moving bureaucracy.

## TIMING IS EVERYTHING?

Recent threats of an emergency closure of a season by NOAA go back to 2006, when the debate was raging over NOAA's proposed 5.7 million-pound quota for summer flounder for 2007.

Many voices were urging the ASMFC to break with NOAA and vote for the poundage they wanted – 19.9 million pounds, an amount the MAFMC agreed to and one a little closer to the 30 million pounds that fishermen were expecting to receive that year – instead of going along with Kurkul's demand.

Kurkul's response at that time was that if the Commission went with a quota that NOAA felt was unacceptable, NOAA would deduct that amount from the federal quota and close the seasons as needed to maintain that quota.

It was a threat that divided the recreational and commercial communities, because the commercial fishermen would have been effectively shut out of the fishery.

There was an outpouring of anger from the fishing community as a whole. Meetings of fishermen were packed all along the coast, and Congressional representatives were issuing press releases constantly criticizing and demanding a higher quota. The pressure was such that NOAA finally relented and grudgingly accepted a quota of 12.7 million pounds for 2007, double the amount initially proposed.

But the closure threats continued. When as the quota discussions heated up in 2007 for the 2008 season, Kurkul again led the push for a smaller quota based on quota overages cited by the MRFSS data. By this time, the MRFSS system had been reviewed and ripped apart by the National Academy of Science, which made more than 200 recommendations of things to be done to improve the survey. Gordon Colvin, who heads NOAA's Marine Recreational Information Program, again pointed out recently that the survey was never designed or intended to be used as a real-time accounting of recreational fishing activity, which is how NOAA has been using the data. "The detail isn't fine enough," Colvin said.

But the numbers were fine enough for Kurkul, who continued to hold them over the heads of the Council and the Commission and threatened a closure of the harvest in the EEZ in 2008 if they agreed to management measures that NOAA deemed insufficient to restrain the harvest. Her letter to the MAFMC

## YAMAHA REPOWER CHANCE OF A LIFETIME!

FREE - 3 YEAR EXTENDED WARRANTY  
FREE - PROFESSIONAL INSTALLATION SERVICE  
Install service valued at up to \$3000



**SUPER  
LOW  
PRICING**

FINANCING  
AVAILABLE!



HURRY – OFFER EXPIRES OCTOBER 31, 2009

**RudyMarine.com**

411 S. Maryland Avenue, Wilmington, DE 19804

Only 5 Minutes From New Jersey — Take the Delaware  
Memorial Bridge to 95S to Rt. 141N. to Rt. 4E. – 1 Mile on Left

**302-999-8735**

DELAWARE HAS

**NO SALES TAX!**



- \* Load Rite Trailers
- \* Forklift Service
- \* Ice \* Bait \* Tackle
- \* Gas \* Diesel
- \* Snacks



**4 Launch Ramps  
Only \$7/Day**

**Factory Trained  
Technicians  
Outboard, Inboard  
& Inboard-Outboard**



**Live Bait  
Live Shedders**

**Chestnut Neck  
Boat Yard**

*We Are A Suzuki "Cutting Edge" Award  
Dealership! Suzuki's Highest Honor For  
Service & Customer Satisfaction!*

758 Old New York Rd., Port Republic, NJ  
**609-652-1119**

mirrored one sent to the Council by Dr. William Hogarth, who was then the head of NOAA Fisheries. Interestingly, Hogarth retired not long after the 2008 regulations were settled. Hogarth's replacement, Dr. Jane Lubchenco, immediately raised red flags in the minds of many because of her ties to the Pew Foundation, which has funded many projects and studies critical of the US fishing industry. Its most famous one claimed the ocean would have no fish left by 2050 – a study later criticized by a multitude of fisheries scientists as being based on flawed data and flawed assumptions.

Because there hasn't been the hue and cry from the public on the threat of losing sea bass the way there was with summer flounder, moving from the threat to the closure was much easier. In 2006, the rumbling about fluke began around the same time the season opened – in part because of the management plan and the rebuilding time frame. But sea bass – which had seen its share of quota fights – was still lingering in the shadow of fluke. So it wasn't until the landings numbers were released that anything was said about shutting it down.

They wasted no time – and gave anglers and angling organizations no time to rally the troops – moving from an emergency closure hearing to actual closure in less than 60 days, which is unprecedented – especially since the sea bass fishery was determined this summer to be rebuilt.

## WHAT HAPPENS NOW

Groups are mobilizing to seek a reversal of NOAA's closure. The Recreational Fishing Alliance is looking at the best avenue for attacking the closure – which even NOAA noted in its press release comes despite the fact that the sea bass fishery is rebuilt. Of particular interest is the MRFSS data, which showed high landings for New Jersey in May and June despite the fact they were two of the rainiest months in recent history. Reps. Frank Pallone and John Adler sent a joint letter to NOAA Fisheries asking that the closure be reconsidered because of the economic impact but also because of the flawed science being used as the basis for the closure. "We believe using the Marine Recreational Fishing Statistical Survey (MRFSS) as the only tool in determining the shutdown of a fishery is severely flawed," they wrote. "The design of MRFSS is such that it must be used over several years to show trends, not snapshots on two-month waves... (If) the Commission had used MRFSS data to close the black sea bass fishery, it would have been an unprecedented use of the data."



"We encourage NMFS to take less restrictive measures and take into account the economic impact to the region before shutting down this fishery," Pallone and Adler wrote. "We can all agree that sustainable fisheries are the most important goal."

However, to continue this assault on recreational fisheries with minimal results is not acceptable."

In the meantime, a number of captains are trying to figure out what they will do.

For some, like Capt. Howard Bogan of the 125' *Jamaica*, the sea bass fishery is his winter bread and butter. From the time the tuna run ends until spring, sea bass is a staple of his trips. While some anglers might turn to ling or porgies (which ironically remained untouched despite similar estimates of quota overages) or even striped bass, the economy has forced many anglers to dramatically reduce their angling habits. The number interested in ling, for example, simply isn't enough to fill three party boats on a daily basis. With that in mind,

Bogan and a number of captains are dropping their black sea bass endorsement from the federal permits, so that they will be able to continue to fish for sea bass inside the 3-mile state limit. Because the black sea bass endorsement is separate (as is the one for summer flounder), they can drop it without giving up their federal permits. But doing so comes with the risk that NOAA could change the permitting rules – and lock them out of the fishery for a much longer time. What happens beyond is anyone's guess. After the ASMFC's emergency closure vote, the consensus was that the sea bass regulations for 2010 would be extremely restrictive to try to prevent the landings overages that MRFSS claimed happened this year. NOAA's closure, however, changes the dynamic.

Will the ASMFC respond confrontationally as a result of NOAA's dictatorial stance? Or will the Commission tighten the regulations severely anyway, even though NOAA's "best available science" says the sea bass biomass is rebuilt? In the end, will any action by the Commission or the MAFMC ultimately matter? The impact of this closure may prove to be yet another blow to party and charter boat captains up and down the coast who have managed to hang on through tight fisheries regulations, an economic squeeze of rising costs for fuel and bait, and an erosion of their customer base due to the same economic pressures and same regulations. When – and if – the black sea bass reopens on April 4, which would be Day 181 after the closure, it will reopen to a significantly changed landscape.

At the rate things are going, it won't be one that has changed for the better. 🐟