

November 9, 2015

Representative Paul Schmid, House Chair

Joint Committee on Energy and Natural Resources

Per request: Rebuttal Response

The following rebuttal is presented as a requested response to testimony presented by Representative Sarah Peake to this Committee on November 5, 2015 regarding the wild striped bass fishery.

Background: Representative Peake is an elected representative of a commercial fishing community and an appointed delegate to the ASMFC, the oversight managing agency for the wild striped bass fishery. Her commercially biased testimony should be viewed for what it was: an earnest attempt to justify her personal involvement in, her responsibility for and the continuation of the commercial striped bass fishery.

We would remind you that the well-being of the wild striped bass fishery is not dependent upon who kills a striper – commercial fisherman or recreational angler – but rather rises from the bias and motivations of those that are responsible for its management.

The past Director of the MA Division of Marine Fisheries, Paul Diodati, called the striper fishery “the most important recreational fishery in the United States.” Yet it is being regulated and its future determined by a commercially-biased majority vote of the regulatory bodies of which Representative Sarah Peake is a participant.

Respectfully submitted,

Dean Clark and Frederic Jennings, Co-Chairs

MA Stripers Forever

Requested Responses to Representative Sarah Peake’s testimony at the 5 Nov 2015 Hearing

1. Representative Sarah Peake testified that the wild striped bass (WSB) fishery is being managed well and responsibly:

Present management targets only breeding female striped bass by requiring that commercially harvested stripers in MA must be over 34 inches in length. Regulators are irresponsibly overseeing this intentional removal of the single most important segment of this fishery! The ASMFC, including Senator Peake, dragged their feet on dealing with the current decline in striped bass for four years before accepting a 25 percent harvest reduction in 2015. The “scientific” data on which ASMFC decisions are based is continuously interpreted in the most optimistic way, yielding unsustainable pressure on this fishery. Commercial bias is resulting in irresponsible not responsible management”)

2. Representative Sarah Peake, in her testimony, offered her “expert” opinion that the spawning stock biomass (SSB) of WSB is currently in excellent and healthy shape, and dismissed all views to the contrary as “emotional” and “unscientific”:

In the ASMFC’s “Draft Addendum IV to Amendment 6 to the Atlantic Striped Bass Interstate Fishery Management Plan for Public Comment” (September 2014), the spawning stock biomass (SSB) for wild striped bass (WSB) is shown to be tracking significantly below not only its “target” but also its “threshold” level, at which point remedial measures must be taken. Furthermore, the SSB of WSB has been trending downward for 12 years since 2003, while under the regulatory responsibility of Senator Peake and her fellow ASMFC delegates.

3. Representative Sarah Peake claimed that the ASMFC is managing this important fishery in a conservative manner:

At the ASMFC meeting on 23 March 2011, the then-Director of the MA DMF Paul Diodati introduced a motion to immediately reduce WSB mortality by 40 percent in response to a 74 percent decline in the recreational catch over just four years. He called the WSB fishery “the most important recreational fishery in the United States” and cited scientific reasons for the immediate need for a harvest reduction (cf. ASMFC Meeting Transcript, 23 March 2011, at p. 9). Director Diodati was then forced to vote against his own motion by being outvoted two to one by

his own MA delegation made up of himself, commercial lobster fishing representative William Adler and Cape Cod Representative Sarah Peake.

The final ASMFC vote against Diodati's motion for harvest reduction was 100% along "party lines" of commercial states vs. gamefish states and the motion lost by only a single vote. Again, exploitation won over conservation.

4. Representative Sarah Peake commented that the WSB fishery stock is under constant study and that the ASMFC is doing their due diligence to make certain no harm is done and that the stocks stay in good shape, saying another thorough stock assessment was due in 2017.

Yes, a stock assessment will be conducted in 2017. However, the results won't be available until sometime late in 2018, and then the ASMFC will take a year or more for remedial options to be proposed, discussed in public hearings and then maybe enacted the following year! This time-table kicks the management can down the calendar road at least five years from now until 2020. Back in early 2011 fisheries expert Paul Diodati (then Dir. MA DMF) called for an immediate 40 percent reduction in WSB mortality. However the Senator and her pro-commercial ASMFC colleagues delayed implementing any cut for four more years until the harvest was finally reduced, but then by only 25 percent at a time when the problems were even more severe than in 2011.

5. Representative Sarah Peake testified that the seals on Cape Cod beaches eat 50,000 fish per day, implying that all 50,000 fish were wild striped bass:

The fact is that these seals eat a wide variety of fish (mostly sand eels) including some WSB. The large increase in seals has raised their predation on all these species, which offers yet another reason for more conservative management policies in this fragile and limited fishery. Predation by seals in no way explains the full magnitude of the WSB decline. The "seal" argument, if anything, justifies an even greater reduction in harvest and more vigilance in protecting this resource.

6. Representative Peake's statement that the MA striped bass commercial fishery is well managed because all fish must be tagged when caught is simply untrue:

The truth is that every state with a commercial striped bass fishery *except for Massachusetts* requires that fish be immediately tagged upon capture.

Commercially harvested WSB in MA need only be tagged at their point of sale, when (or if) they are brought to a dealer. The MA Marine Fisheries Advisory Commission (MFAC) – made up solely of pro-commercial members – inexplicably voted to require tagging only at the point of sale, which many experts think is an open invitation to abuse, putting false appearances ahead of substantive impact.

7. Representative Peake referred to the issuing of commercial WSB permits as another example of this “well-regulated MA commercial wild striped bass fishery”:

Approximately 4,000 commercial WSB permits are sold each year, while only about 1,200 permit holders ever report any sales of fish, meaning that more than two-thirds of commercial WSB permit holders never report a fish sold! Why?

- A commercial permit allows one to exceed the legal limits for recreational angling – 15 per day instead of one.
- Holding a commercial permit invites otherwise recreational anglers to avoid state and federal taxes by writing off their recreational fishing outlays as nontaxable “business expenses.”
- The availability of commercial WSB licenses facilitate a known black market where fishermen will likely get a better price in “back door” sales directly to restaurants than what they would get from a wholesale dealer.

8. Representative Sarah Peake testified that interviews with recreational fishermen, under NOAA’s MRIP program, designed to gather important catch and harvest data, are only conducted by telephone hard lines and thus are generally ineffective:

The vast majority of interviews are taken at boat ramps, docks and popular shore fishing locations by NOAA subcontractors. Blind telephone interviews are being phased out and replaced by interviews with known recreational anglers sourced from the new lists of holders of permits that every salt water recreational angler is now required to have.

9. Representative Sarah Peake made a strong case for maintaining the long-standing tradition in MA of commercially fishing for wild striped bass:

In MA from 2005 to 2014, WSB accounted for an average of 0.37% (one 270th) of total annual commercial landings. The MA commercial striper season is only eight or nine weeks’ duration. About 1,200 individuals sell stripers commercially while

significantly more than 500,000 anglers are fishing for stripers recreationally. The striped bass fishery is in trouble due to commercially-biased management, favoring a small number of commercial license holders over a very large number of citizens engaged in recreational angling. When circumstances show that any “tradition” is proving harmful then things need to be changed and not simply maintained and defended.

10. The Representative blamed warming oceans for driving striped bass away from the coast and into the EEZ federally protected waters:

An analysis of 2015 near-shore Cape Cod water temperatures by fisheries biologist Patrick Williamson shows that temperatures never exceeded the striped bass’ maximum “thermal tolerance” of 27C and, in fact, remained well within the striped bass’ preferred range (Nov 5th - 15C, Oct 16th - 17C, Sept 29th - 22C, Aug 27th - 25C, Jul 31st - 24C, Jun 27th - 20C, May 31st - 18C, Apr 30th - 12C), proving that warming water temperatures are not the cause of the scarcity of stripers. Everyone including the delegates to the ASMFC knows that the problem is due to regulated over-harvesting which is why they finally instituted a 25% harvest reduction for 2015.

11. The Representative’s statement that recreational anglers account for the vast majority of harvested fish is misleading:

By sheer volume the 500,000-plus recreational anglers account for the harvest of more fish – about 4 million pounds – than the 1,200 permit holders reporting sales of about 1 million pounds. To put this in realistic perspective: commercial permit holders selling fish represent only 0.24% (less than one 400th) of the fishery participants yet they are allocated 31.5% of the harvest! Therefore, the average commercial fisherman reporting any sales at all kill over 100 times more pounds of WSB than the average poundage per recreational angler. Commercial license holders have lots of other species to seek, while recreational anglers are almost exclusively interested in just this one fishery. Furthermore, commercial fishermen have made a very successful living as fishing guides in gamefish states, and make more money as guides than they ever did catching and selling fish.

12. The Representative’s claim that commercially-caught striped bass are vital to MA fish markets and restaurants that would instead be forced to sell fish sourced from out-of-state is also misleading:

Currently MA wild stripers can be caught and sold starting from mid-June until the quota is met around mid-August. For the other ten months of the year, wild striped bass sold in this state are not caught here. Also, fully 65% of all striped bass sold in markets and restaurants are farm-raised products of aquaculture, which industry could very easily and quickly expand to meet any excess demand. Making WSB a gamefish would actually help to stabilize the market for healthy farm-raised striped bass.

SUMMARY:

Positive changes need not be disruptive or revolutionary. Changes can evolve into being when well planned and applied in a sensitive way to all those affected. These Bills do precisely that. In this instance, the greater economic, social and environmental good must take precedence over blind "tradition." A policy making WSB a gamefish will help to recover a recreational fishery potentially worth billions of dollars per year to the MA economy, while giving gamefish states a majority vote on the ASMFC, shifting the balance of this body in favor of resource conservation.

That is what we request.