

The Dispatch

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Settlement Near in White Marlin Lawsuit?

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OCEAN CITY (11/26/2004) - With the lawsuit to list the Atlantic white marlin as a threatened or endangered species stalled in the court system as the population reportedly continues to decline, a settlement is nearing on an alternative solution to the alarming mortality rate.

Citing rapidly declining white marlin stock, two environmental advocacy groups filed suit against the National Marine Fisheries Service (NMFS) last January for failing to list the species as endangered or threatened under the Endangered Species Act (ESA). NMFS considered listing the white marlin as threatened or endangered in the fall of 2002 before deciding the science presented at the time did not warrant the action.

The Center for Biological Diversity and the Turtle Island Restoration Network filed suit in federal court to allow a judge decide if the science presented warranted an ESA listing for white marlin, but the machinations of the court system have stalled the process forcing interested parties to the negotiation table in order to come up with a plausible solution.

While the sensitive negotiations move forward with no real timetable, progress has been made in recent weeks on a possible solution that would keep commercial long-liners out of areas spawning and feeding areas for the species known as “hot spots” during specific times of the year, according to Dr. James Chambers of the Center for Biological Diversity and author of the petition to list the white marlin under the ESA.

Should an agreement be reached, Chambers said the lawsuit could be dropped in favor of what is believed to be an answer to the declining white marlin population.

“We could be getting close to a settlement,” said Chambers. “We’ve offered what we think is a logical solution, and if its agreed upon and implemented, than this lawsuit can simply go away.”

NMFS is in the process of amending both the Atlantic Billfish Fishery Management Plan and the Fishery Management Plan (FMP) for Atlantic tuna, swordfish and shark, and Chambers is pushing the federal agency to take action to protect known spawning and feeding grounds in the North Atlantic from commercial long-lining, which both camps hold largely responsible for the mortality rate of the white marlin. Marlin and other billfish are often an incidental by-catch in the commercial long-lining process, which strings miles of baited hooks in an effort to catch other staples such as tuna, for example.

The International Commission for the Conservation of Atlantic Tunas (ICCAT) governs the international long-lining industry, but NMFS has the power to regulate the industry in U.S. waters, which include the

hot spots along the Eastern seaboard in the summer months. While NMFS has the power to regulate U.S. waters, the agency has turned a deaf ear on valid science showing the rapid decline of the white marlin population, which was the catalyst for the ESA lawsuit, according to Chambers.

“They have told us they wouldn’t consider any management policy until the numbers had declined to one percent,” he said. “It was simply a case of nobody home, which is why we filed the lawsuit.”

White marlin spawn in the sheltered areas of the Caribbean during the spring and steadily migrate north along the East Coast during the summer months. The highest concentration of the species is found along the drop-off of the Continental Shelf from Cape Hatteras to the Georges Bank during July and August, which is the catalyst for the multi-billion dollar sportfishing industry in resort communities like Ocean City, also known as the “White Marlin Capital of the World.”

However, the recreational billfish industry accounts for less than 2 percent of the marlin mortality rate, while the commercial long-lining industry accounts for the other 98 percent. While Chambers said he understands the need for domestic long-liners to remain competitive with their less conservation-oriented international neighbors, a simple closure of the known hot spots for the short time during the year the species is most active in them could reverse the declining marlin population in the Atlantic.

“There are known hot spots where marlin stack up like cordwood during the summer months,” he said. “It’s a narrow area that could be avoided by long-liners during the two months or so the marlin are known to be there. It wouldn’t hamper their activity because the species they target are found throughout the Atlantic. If they give up just 2 percent of their fishing grounds during that period, we could eliminate 85 percent of the mortality in domestic waters.”

Chambers said the current negotiations with NMFS and other interested parties could lead to the agency amending the FMP, which could cause the effort to list the marlin as endangered or threatened to go away. However, he did not dismiss the notion of following through with the lawsuit until the end.

“We think they will include those hot spots, and we remain hopeful this can be worked out because it really is the best and most equitable solution,” he said. “There’s no immediate benefit from a threatened or endangered listing because it would take much longer and I don’t know that there is time. The lawsuit is our club, or hammer, so to speak, if an agreement can’t be reached.”