

# EXPLORING THE SUCCESSES AND CHALLENGES OF THE MAGNUSON-STEVENS ACT

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## OVERSIGHT HEARING

BEFORE THE  
SUBCOMMITTEE ON WATER, POWER AND OCEANS  
OF THE  
COMMITTEE ON NATURAL RESOURCES  
U.S. HOUSE OF REPRESENTATIVES  
ONE HUNDRED FIFTEENTH CONGRESS  
FIRST SESSION

Wednesday, July 19, 2017

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# **OVERSIGHT HEARING ON EXPLORING THE SUCCESSIONS AND CHALLENGES OF THE MAGNUSON-STEVENSON ACT**

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**Wednesday, July 19, 2017**  
**U.S. House of Representatives**  
**Subcommittee on Water, Power and Oceans**  
**Committee on Natural Resources**  
**Washington, DC**

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The Subcommittee met, pursuant to notice, at 2:36 p.m., in room 1324, Longworth House Office Building, Hon. Doug Lamborn [Chairman of the Subcommittee] presiding.

Present: Representatives Lamborn, LaMalfa, Graves, Hice, Webster, Bishop, Gianforte; Huffman, Beyer, and Barragán.

Also present: Representatives Young and Scott.

Mr. LAMBORN. The Subcommittee on Water, Power and Oceans will come to order. The Water, Power and Oceans Subcommittee meets today to hear testimony on an oversight hearing entitled, "Exploring the Successes and Challenges of the Magnuson-Stevens Act."

Under Committee Rule 4(f), any oral opening statements at hearings are limited to the Chairman, Ranking Minority Member, and the Vice Chair. I ask unanimous consent that all other Members' opening statements be made part of the hearing record if they are submitted to the Subcommittee Clerk by 5:00 p.m. today.

Hearing no objection, so ordered.

Also, I ask unanimous consent that the gentleman from Georgia, Mr. Scott, be allowed to sit with the Subcommittee and participate in the hearing.

Without objection, so ordered.

We will begin with opening statements, starting with myself, for 5 minutes each.

## **STATEMENT OF THE HON. DOUG LAMBORN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO**

Mr. LAMBORN. Good afternoon. Today the Subcommittee will be diving into—no pun intended—one of the key authorizing Acts under our jurisdiction: the Magnuson-Stevens Act, named after longtime Senators Warren Magnuson and Ted Stevens. However, I would argue that there should be a third name in the title of this Act—our good friend and Chairman Emeritus of the House Natural Resources Committee, Don Young of Alaska.

[Applause.]

Mr. LAMBORN. Congressman Young has been a longtime leader of Federal fisheries management issues, and we greatly benefit from having his expertise on these issues here in this Committee.

Our public lands and waters should be open to the public. Unfortunately, in recent years, access has been eroded by a past administration that ignored state and local laws, input, and science. As we will hear from our witnesses today, these decisions have had real impacts on local economies, cultures, and traditions.

Time and again, this Committee has heard from many commercial and recreational fishermen and the businesses that depend on them about the need for more transparent science and flexibility for regional fishery managers. Congress can and should do something about this.

Last Congress, the House passed Congressman Young's bill to reauthorize the Magnuson-Stevens Act—the law that governs Federal fisheries management. This bill was endorsed by commercial fishing groups, recreational angler and sportsmen's groups, and the shoreside businesses that they support. While this bill ultimately did not get signed into law, Mr. Young has revamped his efforts this Congress with his introduction of H.R. 200.

This bill makes key reforms to reflect scientific advancements and regional needs. It specifically provides flexibility to the Regional Fishery Management Councils who are charged with managing our Federal fisheries stocks. It requires the Federal Government to incorporate state and local data when it comes to making fish population assessments and provides for greater transparency to make sure management decisions are made in an open manner. It is my hope that, with this bill, we will begin to bring this law into the 21st century. All fishermen deserve the right to fish, and that is what this bill helps give them.

I may not live in a coastal community, however, like many of my colleagues who are here today, I have constituents that want fresh, sustainable, U.S.-caught seafood on their dinner plates. Those same constituents may want to go on vacation—for instance, to the Vice Chairman's Sunshine State—and take a deep-sea fishing trip. Our constituents should not have to choose between the two. We can do both.

As we will hear today from our panel of witnesses, we can maintain sustainability while also increasing access to our waters for all. We can strike a balance, and it is incumbent on us to do so. The valuable input given in today's hearing will help guide the Committee as we work with our colleagues to make key reforms to this law.

I want to thank our panel of witnesses for being with us here today, and I look forward to hearing from you all on how we can help bring Federal fisheries management into the 21st century.

[The prepared statement of Mr. Lamborn follows:]

PREPARED STATEMENT OF THE HON. DOUG LAMBORN, CHAIRMAN, SUBCOMMITTEE ON  
WATER, POWER AND OCEANS

Good afternoon. Today, the Subcommittee will be diving into one of the key authorizing Acts under our jurisdiction: the Magnuson-Stevens Act, named after longtime Senators Warren Magnuson and Ted Stevens. However, I would argue that there should be a third name in the title of this Act: our good friend and Chairman Emeritus of the House Natural Resources Committee, Don Young. Congressman Young has been a longtime leader of Federal fisheries management issues and we greatly benefit from having his expertise on these issues here in the Committee.

Our public lands and waters should be open to the public. Unfortunately, in recent years, access has been eroded by a past administration that ignored state and

local laws, input and science. As we will hear from our witnesses today, those decisions have had real impacts on local economies, cultures and traditions. Time and again, this Committee has heard from many commercial and recreational fishermen and the businesses that depend on them about the need for more transparent science and flexibility for regional fishery managers. Congress can and should do something about this.

Last Congress, the House passed Congressman Young's bill to reauthorize the Magnuson-Stevens Act—the law that governs Federal fisheries management. This bill was endorsed by commercial fishing groups, recreational angler and sportsmen's groups and the shoreside businesses that they support. While this bill ultimately did not get signed into law, Mr. Young has revamped his efforts this Congress with the introduction of H.R. 200.

This bill makes key reforms to reflect scientific advancements and regional needs. It specifically provides flexibility to the Regional Fishery Management Councils who are charged with managing our Federal fisheries stocks; it requires the Federal Government to incorporate state and local data when it comes to making fish population assessments and provides for greater transparency to make sure management decisions are made in an open manner. It is my hope that—with this bill—we will begin to bring this law into the 21st century. All fishermen deserve the right to fish and that's what this bill helps give them.

I may not live in a coastal community, however—like many of my colleagues here today—I have constituents that want fresh, sustainable, U.S.-caught seafood on their dinner plates. Those same constituents may want to go on vacation to the Vice Chairman's "Sunshine State" and take a deep-sea fishing trip. Our constituents should not have to choose. As we will hear today from our panel of witnesses, we can maintain sustainability while also increasing access to our waters for all.

We can strike a balance and it is incumbent on us to do so. The valuable input given in today's hearing will help guide the Committee as we work with our colleagues to make key reforms to this law.

I want to thank our panel of witnesses for being here with us today and I look forward to hearing from you all on how we can help bring Federal fisheries management into the 21st century.

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Mr. LAMBORN. I now recognize the Ranking Member, Mr. Huffman of California, for 5 minutes for his statement.

**STATEMENT OF THE HON. JARED HUFFMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA**

Mr. HUFFMAN. Thank you, Mr. Chairman. I do appreciate that the Subcommittee is holding an oversight hearing on the Magnuson-Stevens Act. Last Congress, we did not have this kind of opportunity for input, and unfortunately, a partisan and contentious bill was rushed through Committee with no input from our side of the aisle. So, I hope that this time we can actually work together on what has traditionally been a very bipartisan issue: fisheries management. And if we do that, I think we can make real progress for our Nation's fishermen and coastal communities.

Congress, of course, passed the original Magnuson-Stevens Act in 1976, and subsequent amendments in 1996 and 2006. And the context of that has always been very bipartisan in both chambers. It involved Republicans working with Democrats to enact significant reforms. It has been just over 10 years since the last of these, the 2006 reforms. As we take stock of those, I think we have to conclude that the law is working.

In 2006, 13 percent of stocks were subject to overfishing, 23 percent were overfished. The most recent NOAA report from 2016 showed that only 9 percent of stocks are subject to overfishing, and only 16 percent are overfished.

That is good progress. These numbers have remained at these all-time lows over the past several years, and every year during this period, the number of rebuilt stocks has increased. We now have 41 rebuilt stocks, so Magnuson has been successful.

Healthy fisheries, of course, also means a healthy fishing industry. In 2015, that meant 1.62 million jobs and over \$200 billion in sales from commercial and recreational fishing, supporting coastal communities across this country, including my own district on the north coast of California.

Because this law ensures that fisheries are managed based on science, rather than short-term economic or political motivations, these benefits can continue growing as long as we maintain responsible and sustainable management measures.

Unfortunately, some believe—or argue, at least—that Magnuson is too restrictive, and they want to weaken or circumvent this important law. I am fully aware that it is not always easy or popular to implement fishing restrictions. Management tools like catch limits and rebuilding plans, they are essential to ensure a future for our fisheries and our fishing industry, but in the moment they can be very unpopular, especially in certain localities.

In my district, fishermen went through a period of sacrifice. They had several tough years while groundfish stocks were depleted. But Magnuson provided the scientific and regulatory framework to bring them back. We have now rebuilt half of our groundfish species, and more of them are on the way to being rebuilt. These accomplishments certainly did not come easy, but our fishermen, after making sacrifices, are now benefiting from the long-term health of our fisheries, and the communities that depend on these fisheries are benefiting, as well.

Fishing restrictions, of course, don't just happen. They are only put in place because they are absolutely necessary. If there are not enough fish to support strong harvests both now and in the future, then we have to make the tough decision to cut back.

As we know, Magnuson can be improved, and it is my hope that Democrats and Republicans on this Committee can actually work together and stay focused on fisheries instead of using reauthorization of this important law as a vehicle for partisan, anti-conservation agendas to support special interest groups.

Unfortunately, in recent years our friends across the aisle have not done that. They have chosen, in fact, to pass highly partisan bills that did not benefit from bipartisan collaboration, and the result sort of speaks for itself. Those bills went over to the Senate and they were dismissed out of hand.

So, it ought to be crystal clear that the right thing to do, in terms of good public policy, and also the durability and success of whatever bill passes out of this House can only come from working together. I know there are good ideas on both sides of the aisle to achieve our conservation goals, to modernize data and monitoring, to make fisheries more accessible and profitable.

I also know that it is a legacy of overfishing, and not recent restrictions or other conservation laws, that has caused protracted hardship in some fishing communities. These communities are never going to get real relief until target stocks rebuild, and that



can only happen with a strong Magnuson Act based on sound science and accountability.

So again, thank you, Mr. Chairman, for this hearing, and I look forward to hearing from the witnesses.

Welcome, we are glad you are here. And hopefully I look forward to working together to reauthorize a strong Magnuson Act.

[The prepared statement of Mr. Huffman follows:]

PREPARED STATEMENT OF THE HON. JARED HUFFMAN, RANKING MEMBER,  
SUBCOMMITTEE ON WATER, POWER AND OCEANS

Thank you, Mr. Chairman.

I appreciate that this Subcommittee is holding an oversight hearing on the Magnuson-Stevens Fishery Conservation and Management Act. Last Congress, we didn't have this important opportunity, and unfortunately a partisan and contentious bill was rushed through Committee with no input from our side of the dais. So, I hope that this time we can work together on the traditionally bipartisan issue of fisheries management and make real progress for our Nation's fishermen and coastal communities.

Congress passed the original Magnuson-Stevens Act in 1976, and subsequent amendments in 1996 and 2006. For context, those amendments were passed while Republicans controlled both chambers, and after working with Democrats to enact significant reforms. It has been just over 10 years since the 2006 reforms were passed, and it is clear that the law is working.

In 2006, 13 percent of stocks were subject to overfishing and 23 percent were overfished. The most recent NOAA report from 2016 showed that only 9 percent of stocks are subject to overfishing and 16 percent are overfished. These numbers have remained at these all-time lows over the past several years and every year the number of rebuilt stocks increases. We now have 41 rebuilt stocks, so I think it's safe to say that Magnuson has been successful.

Healthy fisheries also mean a healthy fishing industry. In 2015, 1.62 million jobs and \$208 billion in sales from commercial and recreational fishing supported coastal communities across the country. Because the law ensures that fisheries management is based on science rather than short-term economic or political motivations, these benefits can continue growing as long as we maintain responsible and sustainable management measures.

Unfortunately, some claim that Magnuson is too restrictive and want to weaken or circumvent the law. While I'm fully aware that it isn't always easy or popular to implement fishing restrictions, management tools like annual catch limits and rebuilding plans are essential to ensure a future for our fisheries and fishing industry.

In my district, fishermen went through several tough years while groundfish stocks were depleted. But Magnuson provided the scientific and regulatory framework to bring them back. We've now rebuilt half of our groundfish species and more are on the way. These accomplishments certainly didn't come easily. Our fishermen had to make sacrifices, but the long-term health of our fisheries and communities depend on making these tough conservation decisions, and the support from commercial and recreational fishermen has been integral to sustaining the fisheries that are critical for West Coast communities.

The success and sustainability of the fishing industry relies on harvesting from healthy and productive fish stocks. Fishing restrictions are only put in place because they are absolutely necessary—if there aren't enough fish to support strong harvests both now and in the future, we need to cut back.

As we discuss how Magnuson can be improved, it is my hope that Democrats and Republicans on the Committee can work together and stay focused on fisheries, instead of using reauthorization of this important law as a vehicle for a partisan anti-conservation agenda to support special interest groups. Unfortunately, Committee Republicans have chosen the latter path during each of the last two Congresses, and the Senate has dismissed their bills out of hand. It should be crystal clear from this experience that in order to craft a bill that can become law, we must work together.

I know that there are good ideas from both sides to achieve conservation goals, modernize data and monitoring, and make fisheries more accessible and profitable. I also know that it is the legacy of overfishing, and not recent restrictions or other conservation laws, that has caused protracted hardship in some fishing communities. Those communities will never get real relief until target stocks rebuild, and that can only happen with a strong Magnuson Act based on sound science and accountability.

We must also accept the reality of climate change, and incorporate climate science into fisheries management. Fish stocks are responding to changing temperatures and ocean conditions, and these impacts must be considered if we hope to achieve and maintain strong and sustainable fisheries.

Earlier this morning, I talked about the importance of science in managing endangered species, and again I'd like to highlight the importance of science, this time in managing our Nation's fisheries. We cannot let political or short-sighted economic priorities set the agenda for managing any of our Nation's resources, especially the fisheries that support coastal economies. Magnuson has been a great success for our fisheries, recreational and commercial fishing industries, and people across the country who enjoy eating sustainable seafood. I urge the Committee to move forward on Magnuson reauthorization in a collaborative manner this Congress and I hope that we can make progress on a bipartisan effort to strengthen fisheries management.

With that I'd like to thank the witnesses for being here today and I look forward to hearing from you. I yield back.

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Mr. LAMBORN. I now recognize the Vice Chair of the Subcommittee, Mr. Webster of Florida, for any statement he may wish to make.

Mr. WEBSTER. Thank you, Mr. Chair. I am going to yield my time to the gentleman from Alaska, Mr. Young.

Mr. LAMBORN. The gentleman is recognized.

Mr. YOUNG. Thank you, Mr. Chairman, for having this hearing. And I will say that the bill started in this Committee with another Democrat, Mr. Gerry Studds from Massachusetts. We wrote the bill through the input from fishermen, because the fish were being over-harvested by foreign fleets. We passed the bill and it went over to the Senate side. And, as people will recognize, it was named after two Senators from the West Coast. All I can say, this action, has been one of the better, brighter spots of this Committee.

I will say that the bill has worked beautifully. There have to be some adjustments made, but I have to say to my good friend from California, there is a two-way street here. You don't want to catch any fish, that is really the whole problem, and that is because you want to catch them yourself. And we need the industry as it is to be very viable. We have done that. I believe my bill last year, with the flexibility, which was requested by people involved in the fisheries, including the scientists—and I was accused of destroying the Magnuson Act, which I gave birth to.

I think some of the objections to it were not really well thought out, and what they were trying to do—certain interest groups outside the fishery would have stopped the whole activity of commercial and recreational fisheries.

So, Mr. Chairman, this has been an outstanding piece of successful legislation. I personally do believe in a Council system. Some of the Councils have not functioned well. In my case, the North Pacific Council has done quite well. We are heavily abundant in fish, and there is not as much conflict as there is in other areas across this Nation.

So, Mr. Chairman, I want to thank Mr. Webster for yielding me his time, and suggest that this is an enlightening hearing. Hopefully, we will have the ability to make—if we change some of the decisions, I would like to see it reauthorized. We did pass it out of the House, even though the threat that Mr. Obama was going to veto. What for, I don't know. I won't ask that question again.

But this is a good piece of legislation, as proposed, and as the hearings go. But this hearing is important to hear from all sides, again, and hopefully move a bill that will accomplish the job of sustainable yield of fisheries. I yield back.

Mr. LAMBORN. I will just recognize that we have our Full Committee Chairman, Representative Bishop of Utah, with us today also.

If the witnesses want to come forward to the chairs, our first witness is Mr. Nick Wiley, Executive Director of the Florida Fish and Wildlife Conservation Commission from Tallahassee, Florida; our second witness is Mr. Jeff Kaelin, who works in government relations for Lund's Fisheries, Inc., from Cape May, New Jersey; our third witness is Mr. Charles Witek—I hope I said that correctly—a recreational angler and outdoor writer from West Babylon, New York; and our final witness is Mr. Sean Martin, President of the Hawaii Longline Association, from Honolulu, Hawaii.

Each witness' written testimony will appear in full in the hearing record, so I ask that witnesses keep their oral statements to 5 minutes, as outlined in our invitation letter to you, and under Committee Rule 4(a).

I will explain how the timing lights work. When you are recognized, press the talk button to activate your microphone. Once you begin your testimony, the Clerk will start the timer and a green light will appear. After 4 minutes, a yellow light will appear. At that time, you should begin to conclude your statement. At 5 minutes, a red light comes on. I will ask that you complete your sentence at that time.

Mr. Wiley, if you could present your testimony, we will start with you. Thank you.

**STATEMENT OF NICK WILEY, EXECUTIVE DIRECTOR, FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION, TALLAHASSEE, FLORIDA**

Mr. WILEY. Chairman Lamborn, Vice Chair Webster, Ranking Member Huffman, Chairman Bishop, and other Members, thank you for the opportunity to testify today. I recognize the purpose of this hearing is to explore successes and challenges.

The Magnuson-Stevens Act has delivered some successes. But today, I need to focus on the challenges. Candidly, in Florida and across the Southeast we are facing a number of highly controversial and divisive fishery management issues that we cannot fully address because we are boxed in by the current framework of this Act.

Today, the Act simply is not providing for the best utilization of our Nation's public trust fishery, by our experience. There are several key issues that need to be addressed, including overly restrictive catch limits, flawed monitoring tools, and inflexible fishery rebuilding plans.

Strict annual catch limits are a serious issue for us. They work well for commercial fisheries, where harvest and catch rates can be monitored closely and effectively, almost real-time. They do not work well for recreational fisheries, because we simply cannot monitor recreational fisheries this closely.

The Marine Recreational Information Program, known as MRIP, is a primary tool for monitoring recreational fishing, but it will never be sufficient to support management decisions under strict annual catch limits. Forcing use of MRIP in this manner means we use untimely and unreliable harvest estimates, which translate into short-notice closures, reduced seasons, and reduced catch limits. All of these are actions that frustrate recreational anglers.

These issues can be illustrated with red snapper management in the Gulf of Mexico. Our Gulf red snapper stock is rebuilding well ahead of schedule, but the Federal system is penalizing recreational anglers for success. We are required to manage catch limits by pounds caught, which is a commercial approach. As red snapper get more abundant and bigger, the recreational harvest reaches catch limits more quickly, and Federal seasons get shorter—down to just 3 days this year.

Thankfully, several of you and your colleagues recognized the seriousness of this dilemma and helped us work with the Department of Commerce to allow a 39-day season this year. To those of you who led the way on this effort, particularly Majority Whip Steve Scalise and Commerce Secretary Wilbur Ross, I offer our gratitude for your leadership and support.

Current requirements for rebuilding stocks under Magnuson-Stevens are unnecessarily inflexible. The law requires rebuilding plans to end overfishing within 2 years, and attempt to rebuild stocks within 10 years. These requirements result in overly prescriptive constraints and inflexibility that hinders reasonable management of fish stocks. If we had flexibility for longer rebuilding time frames, stocks could be rebuilt while still allowing more reasonable access for fishing.

Inflexible rebuilding time frames also pressure fishery managers to use inaccurate or even fallible scientific information for management decisions because it is the best available science. The red snapper fishery in the Atlantic is a good example of this issue. Although science tells us our Atlantic red snapper stocks are increasing dramatically, the fishery has been open for only 11 total days of recreational fishing over the past 8 years.

But with no fishing season, we get no harvest data and our best-available science and stock assessments no longer reflect the reality anglers are seeing on the water. We get no season again this year: a bona fide Catch-22, because we cannot scientifically support a harvest without actually having a harvest.

But we are encouraged by legislation that has recently been introduced here in the House, specifically H.R. 200 and H.R. 2023. These bills would substantially improve fisheries management and help bring better balance for fisheries conservation and access. My written testimony specifies much of what we like about these pieces of legislation.

So, the take-home message is that the current Federal management system with regard to recreational fishing, in our view, forces a square peg in a round hole, causing high levels of frustration and loss of confidence in all of us. I know we can do better.

In fact, we only need to look to our near-shore fisheries in Florida and other southeastern states to see how we can do better using well-established management and monitoring tools designed

for recreational fishing. We have a proven track record in the near-shore fisheries, such as red drum, sea trout, and snook. We absolutely can manage for robust and abundant salt water fisheries, working in cooperation with recreational anglers.

Please don't fall for the argument that we want to weaken Magnuson-Stevens. That notion is an affront to the conservation legacy established by recreational anglers and state fishery agencies.

Much to the contrary, our suggestions are intended to strengthen the Act, strengthen partnerships with state fisheries agencies, restore balance between access and conservation, and restore credibility and trust in the system.

Mr. Chairman, thank you again for the opportunity to testify.

[The prepared statement of Mr. Wiley follows:]

PREPARED STATEMENT OF NICK WILEY, EXECUTIVE DIRECTOR, FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION (FWC)

Chairman Lamborn, Vice Chair Webster, and Ranking Member Huffman, thank you for the opportunity to testify at this important hearing "Exploring the Successes and Challenges of the Magnuson-Stevens Act."

My name is Nick Wiley, and I serve as Executive Director for the Florida Fish and Wildlife Conservation Commission (FWC). FWC is the state agency responsible for managing fish and wildlife resources in the state of Florida. I also serve as president of the Association of Fish and Wildlife Agencies (AFWA), which is the professional association that represents state fish and wildlife agencies nationwide. My remarks today, however, are offered on behalf of my agency in Florida.

Recreational fishing generates an economic impact of \$8 billion to Florida's economy and supports more than 115,000 jobs. Florida leads the Nation in the number of saltwater recreational anglers. We have more world record fish catches than any other state or country. Our state is home to a thriving fishing tackle and marine manufacturing industry. Florida leads the Nation in the number of registered boats, with nearly 50 percent of boat owners using their boats for fishing. Recreational boating contributes \$10 billion to our economy and supports more than 80,000 jobs.

Florida has one of the top-producing commercial fisheries in the country, which is second in the Nation in terms of sales, income, and value-added impacts, and is third in the Nation for the number of jobs supported by commercial fishing. The seafood industry in Florida supports more than 90,000 jobs. Sales of Florida seafood have an economic impact of more than \$1 billion.

As the state agency responsible for managing saltwater resources for their long-term well-being and the benefit of people, FWC is uniquely positioned to comment on the Magnuson-Stevens Act.

BACKGROUND

As you are aware, Magnuson-Stevens was enacted in 1976 and amended in 1996 and, most recently, in 2007. The original law creating the Federal fisheries management structure has largely remained in place for more than 40 years. Eight regional management councils are responsible for developing and implementing fishery management plans. Council members are nominated by governors and are appointed by the Secretary of Commerce. The regional management councils monitor fisheries and make recommendations for fishery management plans that are ultimately approved by the Secretary of Commerce with guidance from the National Marine Fisheries Service (NOAA Fisheries). These fishery management plans dictate access to, types of, and number of fish that are available to recreational anglers, the charter fleet, and the commercial industry.

Fishery management plans have a huge impact on the economy at every step from sea to table. It is important, therefore, that all parties involved in the fisheries management plan development processes have access to the right data, use all tools available to interpret these data, and be given the flexibility to make necessary management decisions.

I recognize the purpose for this hearing is to explore the "successes and challenges" of the Magnuson-Stevens Act. This Federal legislation has provided the framework for a number of successes. Many important fish stocks have been rebuilt

or are well on the way to rebuilding due to the provisions of this Act and its diligent implementation. In my agency and my state, however, we always stay focused on challenges and are continually seeking ways to solve problems and improve. This is particularly true with our efforts to sustainably manage marine fishery resources for the benefit of Florida families, communities, and the millions of Americans who visit our state each year from across the Nation.

Given this, I am not inclined to look in the rear view mirror to celebrate successes or rest on laurels. In fact, I want to be very candid in my remarks today. Speaking for my agency and many of our stakeholders, we are not pleased with the current framework of Magnuson-Stevens and believe there is much room for improvement. We are facing a number of highly controversial and divisive fishery management challenges that continue to simmer. We cannot fully address these challenges in many cases because we are boxed in by the current framework of the Magnuson-Stevens Act, and we need your help to find solutions.

Magnuson-Stevens was originally designed to prevent overfishing in the commercial fishing industry and implement rebuilding plans when fish stocks are overfished. The Act has worked best when applied to the commercial sector, but not so well when applied to the recreational sector. The 2007 reauthorization of Magnuson-Stevens created numerous challenges for the management of marine fisheries resources in the southeastern United States. The requirements to manage fisheries under strict annual catch limits, the overly prescriptive constraints for stock rebuilding plans, and general inflexibility within the current version of the law have hindered management of fish stocks in the South Atlantic and Gulf of Mexico. This inflexibility has fostered a serious erosion of public confidence, trust, and support for this fishery management system. FWC believes Magnuson-Stevens, as currently written, needs to be modified and improved to better balance today's need for access and conservation. Changes to the law are needed to provide better utilization of and access to the Nation's public trust resources for the American public and the citizens of Florida.

#### ANNUAL CATCH LIMITS ARE NOT A UNIVERSAL SOLUTION

The requirements for annual catch limits and fishing levels required by Magnuson-Stevens are impractical for the South Atlantic and Gulf regions, which harbor the largest segment of recreational fishing in the Nation. While annual catch limits, or quotas, may work well for commercial fisheries in which harvests are closely monitored, they can complicate management of recreational fisheries, such as red snapper. This is the case because the system that generates recreational harvest estimates, the Marine Recreational Information Program (MRIP), is less precise than commercial monitoring and does not generate estimates in real time. This system was not designed or equipped for tracking recreational harvest to the individual pound, but was originally intended to provide general trends in recreational harvest and effort. Recreational data is often extrapolated unrealistically, especially for species not commonly targeted by hook-and-line, such as hogfish, which are primarily speared, or for species classified as "rare events," such as red snapper, which has had no annual season in the South Atlantic region the last few years, and before that, had a very short one.

Even though methodologies to estimate recreational harvest have improved since the last Magnuson-Stevens reauthorization, they are still insufficient to manage recreational fisheries under strict annual catch limits. Yet, bound by the requirements of Magnuson-Stevens, Federal fishery managers use the recreational data collection system to justify the closing of fisheries, often with minimal advance notice. Despite fishery managers' best efforts to constrain recreational harvest to the annual catch limit through fishing seasons and recreational bag limits, the unpredictable figures produced by the system can result in estimated harvest exceeding the annual catch limit. The penalties for doing so, including closures, reduced seasons, and reduced catch limits, frustrate private recreational anglers and prevent the charter industry from developing effective business plans. Management of the recreational sector under strict annual catch limits generates devastating socioeconomic effects and is highly unreasonable due to the insufficiency of the recreational data collection system.

In the southeastern United States, the annual catch limit requirement further complicates fisheries management for stocks that have never been assessed or whose assessments are outdated. Accurate stock assessments are the linchpin for successful management under annual catch limits. Historically, investment in stock assessment capabilities in the Southeast has been low in comparison with other parts of the country. In 2017, only five assessments of South Atlantic or Gulf Council-managed stocks are scheduled to be completed under the SEDAR process

(three for the South Atlantic and two for the Gulf). Given the large number of federally managed fish stocks, as well as the high level of participation and the economic revenues generated by fisheries in the Southeast, the funding and priorities of NOAA are woefully inadequate for this region. Although the annual catch limit is a Federal requirement, the state of Florida, through FWC, produces many of the stock assessments needed to implement this system. In addition to assessments of state-managed species, FWC annually produces one or two assessments of federally managed species. Inadequate funding of the research and the capacity needed to conduct adequate stock assessments will continue to inhibit management under annual catch limits and will prevent fisheries from achieving optimal yields.

So, in summary, with regard to recreational fisheries management, particularly in the Southeast, the current monitoring system under Magnuson-Stevens is truly a square peg in a round hole causing high levels of frustration, particularly among recreational saltwater anglers. I do not fault the Federal and state fishery scientists and managers who are doing their best to make this system work. We just do not have the flexibility to fully address these problems without changes to the statutory framework and more strategic funding solutions.

Magnuson-Stevens already acknowledges that it is not appropriate to manage all fisheries under annual catch limits, such as in fisheries where the species life cycle is less than a year. However, there are other fish stock characteristics that pre-empt the utility of annual catch limits in the United States. For example Florida's spiny lobster is one of the state's most valuable commercial fisheries with a dockside value averaging \$20 to \$24 million annually. Lobsters have a unique life cycle with a long larval stage, which means the recruits for Florida's fishery are spawned elsewhere in the Caribbean. As a result, harvest in Florida has minimal effect on future abundance of the stock. Decisions made in foreign Caribbean countries ultimately seal the fate of our fishery. Thus, an annual catch limit provides no biological benefit for Florida's spiny lobster, and Magnuson-Stevens should not require this fishery to be managed under this system.

A concrete example of how the current management system of annual catch limits has failed comes from the Gulf of Mexico recreational red snapper fishery. After a long history of overfishing, the Gulf red snapper stock is rebuilding ahead of schedule, and annual catch limits have increased. The commercial fishery has benefited through individual fishing quotas and now has access to the stock year round. In contrast, the recreational fishery has faced increasing uncertainty in recent years, with Federal fishing seasons being cut shorter and shorter each year. The Magnuson-Stevens framework in this regard has created a situation where recreational fishing literally is a victim of successful stock rebuilding rather than realizing increasing access and sharing in successful rebuilding. As a result, the recreational season for Gulf red snapper diminished to just 3 days in 2017.

Thankfully, several of you and your colleagues recognized the seriousness of this dilemma with Gulf red snapper and worked with the U.S. Department of Commerce and Gulf states to allow a 39-day season in Federal waters this year. To those of you who led the way on this effort, particularly Majority Whip Steve Scalise, and on behalf of recreational anglers and coastal communities across the Gulf of Mexico, I want to offer a heartfelt thank you for the relief you provided this season. But now we have to look ahead to next season and beyond to secure durable solutions for the red snapper situation in the Gulf and South Atlantic. We are earnestly and respectfully seeking your continued attention and support in this regard over the next few weeks and months.

If alternative fishery management systems can be employed in Federal fisheries management, private recreational anglers and charter captains would face less uncertainty in fishing seasons while stocks, such as Gulf red snapper continue to rebuild. These innovative approaches would provide valuable socioeconomic benefit to Florida's Gulf coast fishing communities, such as Destin and Panama City, which depend on charter trips and vacationing families staying in hotels and eating in local restaurants, for much of their economy. But, we cannot get there without your help.

#### THE CURRENT SYSTEM IS UNNECESSARILY INFLEXIBLE

The management system established under the 2007 Magnuson-Stevens reauthorization is extremely inflexible and sometimes contrary to common sense. Under the requirements of Magnuson-Stevens, the regional management councils develop rebuilding plans for overfished stocks. The law requires rebuilding plans to end overfishing within 2 years and attempt to rebuild stocks within 10 years, if biologically possible. These arbitrary deadlines can be unnecessarily disruptive to fishing communities and local economies. In some cases, if longer time frames were allowed,

fisheries could be rebuilt or overfishing could be eliminated without devastating the economic livelihood of fishermen and negatively effecting fishing communities. We are simply suggesting a more balanced and measured approach that would benefit all sectors of the fishery while maintaining a path to full rebuilding of fishery stocks. This approach will achieve fishery conservation goals while restoring public confidence in and support for our collaborative fishery management system.

Inflexibility also impacts how data is used in fisheries management. Magnuson-Stevens requires fishery management plans and regulations be “based upon the best scientific information available.” This is sound in theory. However, due to inadequate funding for fisheries research in the southeastern United States, the shortcomings of the recreational data collection system, and stock assessment models that depend upon harvest data, the “best scientific information available” is not always best. The regional management councils and their scientific advisors have recognized this. Yet, they are constrained to using fallible data when making management decisions because it is the best available.

Perhaps one of the best examples of the requirement to use the “best scientific information available” confounding sound management in the Southeast occurs in the Atlantic red snapper fishery. The Atlantic red snapper stock was first declared overfished in 2008. In response, the South Atlantic Fishery Management Council (SAFMC) took drastic measures to end overfishing and implement a rebuilding plan. This included prohibiting all harvest of red snapper in 2010, 2011, 2014, 2015, and 2016. In the last 8 years, NOAA Fisheries has only allowed 17 days of recreational harvest. This creates a significant problem for assessing the Atlantic red snapper stock.

The 2016 stock assessment determined Atlantic red snapper is still overfished and undergoing overfishing. However, the magnitude of overfishing is unknown. This is because the model used to assess the red snapper stock relies on data from fishing to inform the assessment. NOAA Fisheries has determined that without a fishery, the model cannot produce results to inform management or to set annual catch limits. Although the 2016 stock assessment found the stock abundance had dramatically increased, management of the fishery must still be guided by the “best scientific information available,” which comes from the 2010 stock assessment. Consequently, there will be no fishery again this year from which to collect data to inform the next stock assessment. How can we defend this situation to the hard-working people in the recreational fishing industry, the charter boats, and commercial fishermen whose livelihoods depend on sustainable access to this fishery?

The 2010 Atlantic red snapper stock assessment established annual catch limits that restrict the amount of both harvest and dead discards. Dead discards result when fishermen incidentally catch red snapper and release them but the fish does not survive. As the fishery has been closed, only dead discards have been counted against the annual catch limit. The system that generates recreational data, including dead discard, estimates has been deemed the “best scientific information available.” As stated earlier, data produced by this system is imprecise and is often extrapolated unrealistically, especially for closed fisheries. The estimated number of dead discards has increased exponentially in recent years, and for the past 3 years, it exceeded the annual catch limit. NOAA Fisheries acknowledges that estimates of dead discards are flawed. Clearly, the system is broken if the estimated number of fish that die because of bureaucratic regulations exceeds the annual catch limit. These same fish could have been harvested and enjoyed by America’s anglers and seafood consumers. Changes are needed to break this cycle, including the flexibility in determining when and how scientific data should be used.

#### THERE IS A PATH FORWARD

FWC is encouraged by legislation recently introduced in the U.S. House of Representatives that would amend Magnuson-Stevens to provide realistic solutions for continued conservation and management of marine fisheries, while also providing reasonable public access to these resources. H.R. 200 introduced by Congressman Don Young (R-AK), the Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act, would substantially improve fisheries management and help bring better balance for fisheries conservation and access. Specifically, those improvements are:

- Basing fish stock rebuilding time frames on biology rather than on an arbitrary, one-size-fits-all deadline;
- Providing flexibility in ceasing a rebuilding plan when it is determined to no longer be necessary;



- Giving regional management councils the flexibility to use ecosystem changes and economic needs of fishing communities when setting annual catch limits;
- Exempting certain stocks where annual catch limits may not be appropriate, such as spiny lobster;
- Providing flexibility in the management of recreational fisheries, such as fishing mortality rate targets and alternative rebuilding strategies;
- Repealing Section 407(d) because this section is outdated and should be removed given it addresses creation of an Individual Fishing Quota (IFQ) program and catch limits for red snapper. Gulf red snapper has an IFQ program, and catch limits are now addressed elsewhere in the Magnuson-Stevens Act. Removal of this section also would allow the Council to consider needed modifications to the red snapper IFQ program without always needing a referendum.
- Increasing public involvement and transparency when scientific data are developed;
- Prioritizing improvements to data collection and stock assessments, particularly in the Southeast;
- Forming a Federal-State partnership program to improve data collection for recreational anglers;
- Adding a definition for “depleted” and requesting NOAA to indicate in an annual report on why a species is depleted, which might not be related to fishing;
- Requiring a referendum for South Atlantic Council LAPP programs.

While acknowledging enactment of this bill would deliver major improvements, FWC recommends additions or changes as follows to more completely address significant fishery management issues:

- **Reef Fish Stock Assessments in the Gulf:** The Gulf States Marine Fisheries Commission does not have the personnel with institutional knowledge and appropriate science and marine fisheries management background to perform the due diligence and provide an accurate stock assessment. FWC suggests, therefore, changes that would identify a more appropriate organization to perform reef fish stock assessments and stands ready to help identify such an organization.
- **Cost recovery money from Limited Access Privilege Programs (LAPPs):** A complete accounting of the disbursements, including how much is used for program administration, law enforcement, etc., would provide a high level of transparency for the public to understand how this program operates.
- **Marine Recreational Information Program Reporting:** FWC suggests changes in the MRIP report that transparently acknowledge the limitations of MRIP for the current management system.
- **Referendum Participation:** FWC suggests limiting catch share voting to those who have landings from the particular species for which the catch share is being implemented.

In addition to H.R. 200, H.R. 2023, the Modernizing Recreational Fisheries Management Act, which was introduced by Congressmen Graves (R-LA), Green (D-TX), Webster (R-FL), and Wittman (R-VA) contains many important reforms that would bring stability, flexibility, and security to recreational fishing.

Some of those key reforms are:

- Charging National Academy of Sciences (NAS) with conducting a study on allocation for South Atlantic and Gulf of Mexico mixed-use fisheries;
- Repealing Section 407(d) of Magnuson and giving Councils the authority to use alternative fishery management measures for recreational fisheries;
- Instituting a moratorium on LAPP for mixed-use fisheries in the Gulf of Mexico and South Atlantic. FWC suggests including a sunset date, such as 5 years, for the moratorium;
- Basing rebuilding time frames on biology, stock status, and the needs of fishing communities;

- Giving Councils flexibility to consider changes in ecosystem and economic needs of communities when setting ACLs and removing ACL requirements for certain criteria. FWC suggests allowing the Secretary of Commerce, when determining an ACL, to consider that overfishing is not occurring or inadequate data collection system is being used.
- Including affected states in review of proposed exempted fishing permits to ensure the proposed activity is consistent with management and conservation objectives, and that social and economic impacts are minimal;
- Facilitating greater incorporation of data, analysis, stock assessments, and surveys from state agencies and non-governmental sources and following through with recommendations of the NAS for evaluation of whether MRIP use is compatible with current management;
- Creating best practices for state-administered recreational data collection programs and providing funding for improvement of state data collection programs. Within 90 days of enactment, Secretary of Commerce must enter into agreement with NAS to review if MRIP is compatible with the needs of in-season management of annual catch limits, including whether in-season management of annual catch limits is appropriate for all recreational fisheries.

This is an exciting time to be involved in fishery management. We appreciate these opportunities to address serious problems and create a better fishery management system for all parties involved including the hardworking people in the fishing industry and the millions of American families who count on us to provide sustainable access to enjoyable saltwater fishing and tasty seafood.

Mr. Chairman, thank you again for the opportunity to testify, and FWC looks forward to working with you and the members of this Committee to advance legislation that strikes the important balance between access and conservation.

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QUESTIONS SUBMITTED FOR THE RECORD BY REP. WITTMAN TO MR. NICK WILEY,  
EXECUTIVE DIRECTOR OF THE FLORIDA FISH AND WILDLIFE CONSERVATION  
COMMISSION

*Question 1. In my region, anglers are extremely frustrated with Federal management of cobia, in which data seems wildly inaccurate based on what anglers are experiencing on the water. You noted that annual catch limits create a lot of problems when data are lacking. I've heard about another issue with cobia, but in your region in the Gulf of Mexico, where anglers have been expressing a lot of concerns about the health of the fishery. Yet, because the annual catch limit wasn't being exceeded, Federal fisheries managers didn't see cause to respond.*

*I understand your state is proactively implementing more conservative regulations for the fishery, but this seems like a big problem on the Federal side, where a lack of data combined with the annual catch limit requirement can actually put a fish stock MORE at risk.*

*Would you agree?*

Answer. Florida Fish and Wildlife Conservation Commission (FWC) meets five times a year at various locations around the state. This allows staff and the commissioners to hear from our stakeholders, fishing groups, and other interested parties. Over the course of the last few years, FWC staff has been hearing from our anglers about cobia mainly in the panhandle in the Gulf of Mexico. In May 2017, FWC held five public workshops and one online webinar for all parties to provide input. As a result of the feedback from our fishing community and, with support from data that we have access to, FWC is taking steps to improve the cobia fishery. Our draft regulations, which will be presented to the commissioners at the September 2017 meeting for final approval, would institute several changes FWC believes will improve access and conservation. The last Federal stock assessment for Gulf of Mexico cobia occurred in 2013. Because it has been several years since the last assessment and anglers have expressed concerns about the cobia fishery, the Gulf Council has requested another cobia stock assessment, which expected to occur in 2019. Florida anglers have requested that FWC take immediate action to conserve Gulf cobia until the next stock assessment can be completed. Annual Catch Limits (ACLs) are not a universal solution. For years, FWC has been advocating for changes to Magnuson-Stevens. That is why FWC believes allowing more flexibility and alternative fishery management systems would improve conservation and increase access, especially in the recreational sector.

*Question 2. While the Magnuson-Stevens Act has been generally successful at rebuilding fish stocks, it has become clear to me based on my personal experience and the amount of outcry I hear from other recreational fishermen, that the Act hasn't been able to manage that success in a way that works for anglers. I know that there are ways to adjust this law so that it works better for anglers while maintaining conservation safeguards, but in my experience the best conservation safeguard we have are anglers themselves.*

*Mr. Wiley, in your decades of experience working with the recreational fishing community, what do you think recreational fishermen want these fisheries to look like and what role should the rec community have in conservation efforts?*

*Would you agree that modest but important changes are needed to MSA to adapt it to work better for recreational fishermen? What changes do you think are the most important?*

Answer. As you know, the recreational and commercial fishing industry are two different industries. FWC believes Federal and state law ought to examine each industry separately and provide solutions that work for both industries. Magnuson-Stevens was enacted to address issues in the commercial industry. Those laws and regulations do not necessarily fit the recreational industry. Therefore, FWC believes Magnuson-Stevens ought to be changed to allow more flexibility and improvements for the recreational sector. FWC believes H.R. 2023 is a good addition to the Federal stage. FWC supports many of the provisions in H.R. 2023, including MRIP changes, because those provisions are an attempt to provide flexibility and improvements to the recreational industry and an attempt to move away from the one-size-fits-all management structure currently in place.

Since I have been executive director at FWC, our goal at FWC is to find the right balance of providing access to and preserving our natural resources. We work tirelessly to ensure that we have the best information from fishing groups, communities, stakeholders, and other interested parties, so we are making the right decisions. FWC is pleased to work with all parties—recreational, commercial, and charter for hire—who share those goals and who want to help us accomplish those goals.

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Mr. LAMBORN. Thank you.

Mr. Kaelin, you are now recognized for 5 minutes.

**STATEMENT OF JEFF KAE LIN, GOVERNMENT RELATIONS,  
LUND'S FISHERIES, INC., CAPE MAY, NEW JERSEY**

Mr. KAE LIN. Thank you Chairman Lamborn, Vice Chair Webster, Ranking Member Huffman, Chairman Bishop, and distinguished members of the Subcommittee. Thank you for the opportunity to speak with you today on the need to reauthorize the Magnuson Act in this Congress, and in strong support of H.R. 200.

I want to thank Congressman Young for sponsoring that bill, and for leading efforts to maintain productive and sustainable U.S. fisheries. We also want to thank Secretary Ross for his important focus on achieving optimum yield (OY) from each U.S. fishery while preventing overfishing, which this bill will help to facilitate across the country and in the GARFO region.

My comments today are on behalf of my employer, Lund's Fisheries of Cape May, New Jersey. We are a family-owned and operated primary producer of fresh and frozen seafood and high-quality bait products for recreational and commercial fishermen and several U.S. fisheries.

Since 2006, the U.S. seafood industry has lost access to robust fishery resources from the application of overly precautionary interpretations of the Act by attempting to reign in a changing marine environment on an annual basis, or within a decadal time frame. We appreciate the fact that this bill will improve the situation in

the coming years, utilizing a collaborative approach and developing better science by which better management decisions can be made.

For the 2006 reauthorization to work, there is a heavy reliance on high-quality scientific information. Unfortunately, this is information that, in most regions, we simply don't have. The juxtaposition of insufficient data on many stocks with considerations of scientific uncertainty in the quota-setting process has resulted in robust precautionary buffers and yields below maximum sustainable yield (MSY) at the expense of our industries, our communities, and the Nation.

Several facts justify the idea that additional reform is necessary to address the unintended consequences from the 2006 amendments. NOAA has recently published a re-examination of the National Standard One guidelines around realizing OY and supporting flexibility, predictability, and stability.

In 2013, the GAO concluded that the 10-year rebuilding requirement was arbitrary, and that the mixed stock exemption should be revisited. Many of their recommendations for the Managing Our Nations fisheries conference and from the Councils strongly support carefully targeted reform.

We are plagued by the Act's requirement to have all stocks, including minor ones, at MSY in the same time, and in the same space, which is severely limiting ecosystem-based fishery management options at the Council level, with the collective result being that we are not meeting our primary Federal fisheries management objective to maximize harvest to provide the greatest benefit for the Nation.

In the interest of time, I will quickly summarize our support for a few of the most important issues that H.R. 200 addresses.

We support flexibility in rebuilding fish stocks as part of the path to sustainable fisheries, and support eliminating the 10-year time frame for rebuilding overfished or depleted fisheries, replacing it with a biologically-based foundation.

We support substituting the term "overfished" with depleted, as this term more accurately characterized population shifts based on environmental and non-fishing impacts.

We support expanding limitations to annual catch limit (ACL) requirements for special fisheries by expanding the existing 12-month life history definition for short-lived species, which will be a benefit to managing the butterfish fishery.

We support the bill's exemption from ACL control rules for transboundary stocks, which would be a benefit to managing the Atlantic mackerel fishery. We support re-defining ecosystem component species as a non-targeted, incidentally harvested species which will provide a benefit to our chub mackerel management associated with the Illex fishery in the Mid-Atlantic.

We support the addition of reciprocal voting rights for established Council liaison positions between the New England and Mid-Atlantic Councils.

We support the requirement that a referendum be held before instituting a new catch share program in the Mid-Atlantic.

And we strongly support the bill's intent to ensure consistent fisheries management under competing Federal statutes, including

the Marine Sanctuaries Act, the Antiquities Act, and the Endangered Species Act.

We also appreciate the focus on regional fishery management research needs and the potential to use industry platforms in support of auxiliary stock assessment surveys. We want to emphasize the need for continued and enhanced congressional and agency support for collaborative fisheries research involving the science centers, the commercial and recreational industries, and academic partners, and the need to apply more resources toward assessment science and improving the assessment process through frequent and timely benchmark assessments and updates.

Mr. Chairman, thank you for holding this hearing today, and for your intention to seriously consider moving this bill during this Congress.

We look forward to working with you and the members of your staff toward that end.

[The prepared statement of Mr. Kaelin follows:]

PREPARED STATEMENT OF JEFF KAE LIN, LUND'S FISHERIES, INC.,  
CAPE MAY, NEW JERSEY

Chairman Lamborn, Ranking Member Huffman, Vice Chairman Webster and distinguished members of the Subcommittee, thank you for the opportunity to speak with you today on the need for reauthorization of the MSA in this Congress, and in strong support of H.R. 200. I want to thank Congressman Young for sponsoring this bill and for leading efforts to maintain productive and sustainable U.S. fisheries. We also want to thank Secretary Ross for his important focus on achieving optimum yield (OY) from each U.S. fishery while preventing overfishing, which this bill will help to facilitate across the country and within the GARFO region.

Many of us have been involved in previous reauthorizations which used to occur with some regularity and with broad national and regional agreement. Although that has clearly not been the case over the last decade or so, our recreational and commercial fishing opportunities will be needlessly limited, from both an ecosystem and community resilience perspective, if reforms cannot be advanced this year.

My comments today are on behalf of my employer, Lund's Fisheries, in Cape May, New Jersey but I want to give credit to Mr. Greg DiDomenico, Executive Director of the Garden State Seafood Association, for his assistance with this testimony and for emphasizing the need to immediately reauthorize this fundamental Federal fisheries law to the benefit of our coastal communities and U.S. seafood consumers.

In addition to my comments being coordinated with Mr. DiDomenico, I have also referred to the 2014 Mid-Atlantic Fishery Management Council's (MAFMC) comments on an earlier version of this bill, written while I was privileged to serve as a Council member. Today, the MAFMC is undergoing at least the third rewrite of its risk policy around setting science-based Allowable Biological Catch control rules (ABCs), which points out the need to continually attempt to apply flexibility in balancing resource and community sustainability under the rigid standards of the Act as currently written. I also referred to the Council Coordinating Committee's June 2017 working paper on reauthorizing the Act, which is still in development. My thanks go to the New England Council for making this paper available at their Portland meeting last month.

Lund's Fisheries, Inc. is a primary producer of fresh and frozen seafood and high-quality bait products for recreational and commercial fishermen in several U.S. fisheries. We purchase, process and distribute nearly 30,000 metric tons of fresh and frozen fish annually. We have about 30 fishing vessels delivering a variety of products to our facility year round.

The majority of these vessels call Cape May their home port. Several are company-owned and we also work with independent vessels landing from Rhode Island, New York, Virginia, and North Carolina. Our East Coast fishing grounds extend from the Gulf of Maine, south through Cape Hatteras, North Carolina. The significant number of species we handle are managed by two Federal Councils and an interstate commission.

The 2006 Amendments and their subsequent implementation fundamentally altered the way domestic fishery resources are managed here. The core concept was to separate fish politics from science. Those new provisions focused on ending over-

fishing immediately, developing accountability in both recreational and commercial fisheries, rebuilding stocks as quickly as possible, and reducing fishing capacity through defining limited access programs—all in the context of a more intensive reliance on science in the decision-making process.

When the Act was last reauthorized in 2006, we supported the science-based focus of the amendments and the adoption of hard catch limits. We already had a hard catch limit in the herring fishery that long ago and believe today that this has led to a sustainable coastwide Atlantic herring resource and fishery.

Since that time we have learned that improvements in this process can and should be made. Adaptive fisheries management would have us gather performance data and learn from the unintended consequences that are bound to occur and have occurred in managing the dynamic ocean environment that New Jersey's recreational and commercial fishing industries and communities rely upon for food, jobs and recreation. H.R. 200 provides us with that opportunity.

Since 2006, the U.S. seafood industry has lost access to robust fishery resources from the application of overly precautionary interpretations of the Act by attempting to rein in a changing marine environment on an annual basis or within a decadal time frame. The result has been that a founding principle of the Act has been eroded to the extent where we have lost our collective ability to “achieve optimum yield on a continuing basis” in our region. Each fishing sector benefits from better science and the resulting predictability that it brings about, for employees and customers. We appreciate the fact that this bill will take us in this direction in the coming years, utilizing a collaborative approach in developing better science by which better management decisions can be made.

It has turned out that, while the rigid nature of the time-certain, annual adjustments approach may have reduced or eliminated overfishing of some directed fisheries, an outcome that we certainly support, in many cases it has also led to significant underfishing of other stocks due to the domestic seafood industry being subjected to a seemingly repetitive, precautionary application of risk averse management culminating with significant, unpredictable quota reductions stemming from wildly fluctuating estimates of scientific uncertainty. This bill will help to minimize that uncertainty in the future and result in more U.S. jobs from the sea.

In 2009, and again in 2016, NOAA revised the National Standard One Guidelines (NSG1) requiring the Regional Fishery Management Councils (RFMCs) to consider both scientific and management uncertainty when setting quotas. Many of these recommendations we strongly support, such as the application of a mixed stock exception to the Act's annual ACL requirement in certain cases and the authorization for Optimum Yield (OY) to be expressed qualitatively in data poor situations. We urge the Subcommittee to use this bill to provide a statutory basis for these specific allowances in order to enhance flexibility in our region.

For the 2006 reauthorization to work there is a heavy reliance on high quality scientific information. Unfortunately, this is information that in most regions we simply do not have. The juxtaposition of insufficient data on many stocks with considerations of scientific uncertainty in the quota setting process has resulted in robust precautionary buffers and yields below MSY (Maximum Sustainable Yield) at the expense of the industry and our Nation.

The following points justify the idea that additional reform is necessary to address the unintended consequences from the 2006 amendments. These include but are not limited to: (1) the Natural Resources Committee considered no less than eight bills focusing on MSA reform in 2011; (2) the Committee has convened six hearings with testimony from almost 100 witnesses in the 113th Congress; (3) NOAA has recently published another re-examination of NSG1 advice around realizing OY, predictability and stability; (4) in 2013 the GAO concluded that the 10-year rebuilding requirement was arbitrary and the mixed-stock exemption should be revisited; (5) many of the recommendations from the 2013 “Managing Our Nations Fisheries III” and from the Regional Fishery Management Councils (RFMCs) strongly support carefully targeted reform; (6) we are plagued by the Act's requirement to have all stocks, including minor ones, at MSY in the same time and in the same space, which is severely limiting ecosystem-based fishery management options at the Council level; and (7) we are not meeting our primary objective to maximize harvest to provide the greatest benefit to the Nation.

Our comments follow the outline of H.R. 200 and will emphasize reasonable improvements we encourage the Subcommittee and the House to support in reauthorizing the Act as soon as possible. We are not commenting on sections of the bill related directly to Gulf of Mexico or Pacific-specific provisions or provisions related primarily to recreational fishing.

#### **SEC. 4. FLEXIBILITY IN REBUILDING FISH STOCKS**

We support flexibility in rebuilding fish stocks as part of a path to sustainable fisheries and fishing communities and support the elements of this section including eliminating the 10-year time frame for rebuilding overfished or depleted fisheries within a particular time period, replacing it with a biologically based foundation.

This section is intended to allow rebuilding plans to take into account environmental factors and predator/prey relationships, which we strongly support. It is our understanding that the conservative fishing mortality rates in the region already allow some 80 percent of an available fishery resource to remain in the water each year and there is little public understanding of this fact. In addition, a rebuilding plan would include a schedule to review FMP targets and progress including the option to use alternative harvest control rules and F-rates, which should help in giving the SSCs and Councils additional flexibility in setting ABCs and ACLs (Annual Catch Limits).

We also support clarifying that a rebuilding plan may be terminated if it is determined the stock status determination was incorrect and the allowance that an emergency rule/interim measure period may be increased to 1 year (from 180 days) with an option to extend for an additional 1-year period.

#### **SEC. 5. MODIFICATIONS TO ANNUAL CATCH LIMIT REQUIREMENTS**

This section provides Councils with increased flexibility in setting ACLs. The ACL requirement is retained in the Act but the RFMCs could consider changes in ecosystem and economic needs of the communities when setting limits. In light of changing environmental conditions, and the role of the environment in fisheries recruitment, these additions make scientific and common sense.

We strongly support expanding limitations to ACL requirements for ‘special fisheries’ by expanding the existing 12-month life history definition. We believe butterfish, for example, should fit this proposed ACL exemption as a species that exhibits a short life history, an extremely high natural mortality rate, and highly uncertain, variable survey indices. This combination of factors has resulted in an exceedingly variable catch level over time, so that it is not possible to accurately determine the condition of the stock or avoid a ‘choke species’ outcome with negative effects on fishing for other short-lived species like squid.

The Act currently provides an exemption from the ACL control rules for stocks managed under international agreements but does not address species that are truly trans-boundary in nature where there is only an informal agreement (or no agreement) in place. We support the bill’s expansion of these extra-territorial considerations.

For example, in the case of Atlantic mackerel, scientific evidence has indicated the stock distribution is shifting into Canadian waters. Unfortunately, the United States has no formal trans-boundary sharing agreement and Canada takes what they can harvest before a U.S. ACL can be specified. In this instance, unilateral U.S. management actions pursuant to MSA do not affect rebuilding or end overfishing but disadvantage our fishermen and weaken the U.S. negotiating position. Due to the lack of a trans-boundary ACL exemption, rigid interpretation of MSA requirements, and applications of layers of scientific uncertainty, the U.S. mackerel fishery has been severely restricted and it has been (and will remain) difficult to rebuild quota levels under the existing MSA limitations.

We also support this section redefining “Ecosystem Component Species” as a non-targeted incidentally harvested species or those species identified by a regional council that is not depleted or likely to become depleted in the absence of management measures. These changes will provide additional flexibility in allocating directed fishery resources by the RFMCs when minor incidental catches are involved. We also support the clarification that ACLs can be established for up to 3 years, which codifies NOAA’s related NS1 guideline recommendations, as we understand the issue.

#### **SEC. 6. DISTINGUISHING BETWEEN OVERFISHED AND DEPLETED**

This section correctly defines “overfishing” and removes the term “overfished” from the Act, substituting the newly defined term “depleted,” which we strongly support. This is an important element of this bill as this term more accurately characterizes population shifts based on environmental and non-fishing anthropogenic impacts instead of characterizing stock impacts as being based solely on fishing mortality effects. This section also requires changes to the annual Status of Stocks report submitted by the Secretary to distinguish between stocks that are depleted or approaching that condition due to fishing and those meeting that definition as a result of other factors. The Secretary must also state for each identified fishery whether they are the target of directed fishing. We support the separation and

clarification of the two terms and the requirement to differentiate sources of mortality when projecting stock status and setting ACLs.

#### **SEC. 7. TRANSPARENCY AND PUBLIC PROCESS**

We support requiring each scientific and statistical committee (SSC) to expand the transparency of their ABC-setting process. Specifically, within the GARFO region (NEFMC & MAFMC) meetings of the SSCs, FMATs (fishery management action teams) and PDTs (plan development teams) are unevenly webcasted or unevenly provide call-in opportunities to facilitate public participation, although this has improved in recent years. With the tremendously complex and geographically broad management system that we must participate in, expanding these requirements will allow for broader participation in the process than is currently the case. We also support this section's focus on the development of fishery impact statements to specifically analyze proposed impacts of management measures on the human environment. The process will benefit from required, regular reviews of the collective impacts of fishery regulations on our coastal communities and economies.

#### **SEC. 8. LIMITATION ON FUTURE CATCH SHARE PROGRAMS**

We support a referendum vote for all future catch share programs implemented in the Mid-Atlantic region and we support the establishment of a fully-informed majority vote referendum by fishermen with landings in 3 of 5 recent years (with allowances for hardship considerations).

#### **SEC. 9. REPORT ON FEE**

We support this sensible provision, providing additional transparency in the collection of fees to fund administrative aspects of specific fishery management programs including limited access privilege programs.

#### **SEC. 10. COOPERATIVE RESEARCH AND MANAGEMENT PROGRAM**

We appreciate the focus on regional fishery management research needs and the focus on using industry platforms in support of auxiliary stock assessment surveys. We also appreciate the focus on the need for more accurate and timely catch reporting through the use of electronic reporting systems, which all of our vessels are engaged in at this time as part of the Study Fleet concept supported by the Northeast Fisheries Science Center's cooperative research program. Although we are also participating in a pilot electronic monitoring program in the region's Atlantic herring and Atlantic mackerel fisheries, we believe that monitoring the Nation's fisheries should continue to be a fundamental government function in our region, with the benefit to the Nation accruing through our industry's development of the Nation's fishery resources. Requiring industry to fund these programs in the future will diminish both industry and community resilience since profit margins are small in this global business.

#### **SEC. 11. COUNCIL JURISDICTION FOR OVERLAPPING FISHERIES**

We support the addition of reciprocal voting rights to established Council "liaison" positions between the New England and Mid-Atlantic RFMCs. While fishermen in the Mid-Atlantic do not wish to dismantle established Council membership, fishermen in New England made the request to change that membership. Since this provision establishes a limited reciprocal voting right and does not disrupt current Council procedures and membership, there is general agreement about this provision between fishermen in the two areas. This solution will facilitate enhanced coordination between the two Councils and deserves the Subcommittee's support.

#### **SEC. 14. ENSURING CONSISTENT MANAGEMENT FOR FISHERIES THROUGHOUT THEIR RANGE**

We strongly support this section's intent to ensure consistent fisheries management under competing Federal statutes, including the Marine Sanctuaries Act, the Antiquities Act and the Endangered Species Act—with the MSA being the controlling statute. We were extremely disappointed by the prior administration's establishment of shoreline boundaries and commercial fishing restrictions as part of the Northeast Canyons and Seamounts National Marine Monument designation. These restrictions were unnecessary, from a resource conservation perspective, and differed significantly from the ongoing efforts of the NEFMC to protect deep-sea coral in the canyon regions. The restrictions are also in opposition to the recent successful efforts of the MAFMC to balance fishing opportunities in and around the canyons with preservation of the vast majority of hard corals found on the canyon walls and in the abyss surrounding the distant seamounts.

Regarding Marine Sanctuaries, many stakeholders who fish in and around these areas believe there are definitely conflicting jurisdictions between the National



Marine Sanctuary Act and the MSA when it comes to fishing regulations. We share these concerns relative to the Stellwagen Sanctuary's policy goals which are often at odds with those of the NEFMC and we are equally concerned about the proposal to establish a Hudson Canyon marine sanctuary in the midst of important fishing grounds in the Mid-Atlantic region.

We believe the specific problem appears in Section 304(a)(5) of NMSA (16 U.S.C. 1434) whereby the Councils are afforded the opportunity to prepare draft regulations using the MSA as guidance only "to the extent that the standards are consistent and compatible with the goals and objectives" of the Sanctuary designation. This is the crux of the jurisdictional and philosophical conflict between NOAA/NMFS and NOAA/National Ocean Service (NOS) as we understand the issues involved.

**SEC. 18. ESTIMATION OF COST OF RECOVERY FROM FISHERY RESOURCE DISASTER**

We support requiring the Secretary to rapidly identify fishery disaster costs, in order to facilitate appropriate compensation to those affected.

**SEC. 19. DEADLINE FOR ACTION ON REQUEST BY GOVERNOR FOR DETERMINATION REGARDING FISHERY RESOURCE DISASTER**

We also support requiring timely decisions by the Secretary in these circumstances.

**SEC. 26. REQUIREMENTS FOR LIMITED ACCESS PRIVILEGES**

We support establishing a more formal and detailed review on the operations and impacts of limited access privilege programs, involving collaboration with the RFMCs and the Secretary's office.

**SEC. 27. HEALTHY FISHERIES THROUGH BETTER SCIENCE**

While we strongly support the linkage between healthy fisheries and improved scientific information we are not in support of separating recreational fisheries science from that used to manage commercial fisheries, as Section (2) would appear to do. Also, we are not in support of identifying information from a wide variety of sources, particularly that originating from certain non-government sources, as necessarily equivalent to the best scientific information available.

At the same time, we wish to emphasize the need for continued and enhanced Agency support for collaborative fisheries research involving the Science Centers, industry and academic partners. Not only will enhancing this collaboration lead to reducing uncertainties around assessing fish stock status in the future but it will also lead to broader support for quota outcomes if recreational and commercial industry partners are engaged in developing the best available scientific information being used in the fishery management process.

Finally, we want to emphasize the need for Congress and the Agency to apply more resources toward assessment science and focus on improving the assessment process through more frequent and timely benchmark assessments and updates. In this context we were particularly disappointed to see that none of the \$13.8 million allocated to the 2017 Coastal Resilience grant program will be used to support enhanced fishery stock assessment initiatives in the GARFO region.

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In closing, we would like to sincerely thank the Subcommittee for holding this hearing today and for your intention to seriously consider important MSA reform during this session of Congress. It is likely that my comments today do not fully take into account the variety of issues addressed in H.R. 200 or fully grasp the Subcommittee's intent in all aspects of the bill. In recognition of this fact, I look forward to working with the members of this Subcommittee and your staff to further refine the provisions of the Strengthening Fishing Communities and Flexibility in Fisheries Management Act and support its passage this year.

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Mr. LAMBORN. We will now hear from—I hope I say this correctly—Mr. Witek?

Mr. WITEK. Mr. Witek, sir.

Mr. LAMBORN. OK. Mr. Witek, you are now recognized for 5 minutes.

**STATEMENT OF CHARLES WITEK, RECREATIONAL ANGLER  
AND OUTDOOR WRITER, WEST BABYLON, NEW YORK**

Mr. WITEK. Mr. Chairman, Mr. Vice Chairman, and Mr. Ranking Member, thank you for inviting me to be here today. My name is Charles Witek, and I am a recreational fisherman residing in West Babylon, New York. I have more than 50 years' experience angling on every coast of the United States, including Alaska and Hawaii, although I have done most of my fishing off southern New England and in the upper Mid-Atlantic.

I am a writer, specializing in salt water fishery conservation issues, and a Vice President of the New York State Outdoor Writers Association. I have held a seat on the Mid-Atlantic Fishery Management Council. I currently sit on the New York State Marine Resources Advisory Council, and on the Atlantic States Marine Fishery Commission's advisory panels for winter flounder and coastal shark.

My observations while on the water and my experience with the fishery management process has made me a strong supporter of the conservation and stock rebuilding provisions of Magnuson-Stevens. Some claim that the Act is too restrictive and leads to regulations that harm fishing-related businesses. But the lack of adequate fisheries regulation is far more likely to do lasting damage.

Nothing illustrates that better than the recreational winter flounder fishery in the state of New York. Since the late 1980s, the recreational fishing industry has argued that additional restrictions on the winter flounder fishery would cause them to lose business. So, regulations were never adequate to halt a stock decline, and the stock collapsed.

NMFS recreational fishing effort estimates show that 1986 New York anglers made over 1 million fishing trips targeting winter flounder. In 2016, after the collapse, New York anglers made only about 74,000 such trips, and our angling-related businesses lost the revenues that would have accrued from 1 million winter flounder fishing trips each year.

The East Coast is a living laboratory that allows us to evaluate the consequences of various approaches to fisheries management. The Mid-Atlantic Fishery Management Council is quick to adopt regulations consistent with the intent of the Act, and we enjoyed a number of years when no Council-managed stock was either overfished or experiencing overfishing.

The New England Council tried to temper the Act's mandates with various economic concerns. Instead of imposing annual catch limits, it adopted so-called input controls, such as trip limits and limits on days at sea, which never manage to end overfishing. As a result, our recreational fisheries for many groundfish species have declined precipitously.

Since 1996, Federal fisheries managers have successfully rebuilt 41 stocks, and many others are well on the road to recovery. During the same period, the Atlantic States Marine Fisheries Commission employed a flexible management approach that failed to rebuild a single stock that falls under its old jurisdiction. A number of stocks, including American eel, southern New England lobster, American shad, northern shrimp, tautog, and weakfish declined during that time. Even striped bass, ASMFC's singular

fishery management success, has experienced a decline, and the population is now hovering just above the overfished threshold.

It is thus clear that the Act, with its annual catch limits and rebuilding deadlines, provides the only framework for fisheries management that has met with consistent success. If we want an angling industry, we must have fish. Not just small, overfished populations, but an abundance of fish that will allow even unskilled anglers to catch a few.

Today, New York's angling industry sits atop a tippy, three-legged stool. One leg is made up of striped bass, another of summer flounder. The third consists of everything else, none of which is abundant enough or popular enough to support the stool by itself. If any leg of that stool collapses, New York's angling industry will collapse, as well. The fact that both striped bass and summer flounder are almost overfished gives real cause for concern.

Making the Act more flexible, weakening its requirements to use the best-available science, or allowing anglers to overfish will not, in the long run, help fishermen or the businesses they support. Our fishery cannot long survive if all effort is concentrated on a handful of species that remain relatively abundant. Currently depleted stocks must be rebuilt.

Thus, it is critical that the conservation and management provisions of the Act remain strong. Only the best peer-reviewed science should be used in assessments, and anglers must act on such science, whatever its conclusions.

Finally, the Act must concentrate not only on the species we fish for. It must assure that there are adequate forage species for them to feed on, healthy corals, sponges, and other life to provide habitat and nursery areas, and intact ecosystems in which they can function. By achieving those goals, Congress can assure that the Act remains the most comprehensive and most effective fisheries management law, not only in the United States, but in the world.

Thank you.

[The prepared statement of Mr. Witek follows:]

PREPARED STATEMENT OF CHARLES A. WITEK, III, RECREATIONAL FISHERMAN,  
WEST BABYLON, NEW YORK

My name is Charles Witek. I am a recreational fisherman residing in West Babylon, New York.

I have fished for most of my life, and have more than 50 years' experience angling on every coast of the United States, including Alaska and Hawaii, although most of my angling has taken place in southern New England and the upper Mid-Atlantic region. I am a writer specializing in salt water fishery conservation issues, and a vice president of the New York State Outdoor Writers Association.

I have also been active in the fishery management process. I formerly held a seat on the Mid-Atlantic Fishery Management Council, and currently sit on the New York State Marine Resources Advisory Council, and on the Atlantic States Marine Fisheries Commission's advisory panels for winter flounder and coastal sharks.

My observations while on the water and my experience with the fishery management process has made me a strong supporter of the Magnuson-Stevens Fishery Conservation Act (Act) and, in particular, the conservation and stock rebuilding provisions of such Act which were added during the previous two reauthorizations. Thanks to the Act, the Federal fishery management system is undoubtedly the most comprehensive and most effective fishery management system in the Nation, which has successfully ended overfishing in most American fisheries, and has successfully rebuilt 39 once-overfished stocks.

Unfortunately, the most important and effective provisions of the Act are coming under attack by some members of the recreational fishing community, persons and

organizations who apparently value the short-term exploitation of America's marine resources more highly than the long-term health and abundance of the Nation's fish stocks. Years of experience as an angler and as a participant in the management process have taught me that such an approach is ultimately self-defeating; while it may provide a greater short-term economic benefit, in the end, it depletes fish populations and causes far greater economic hardship than the fishing industry would have experienced had adequate regulations been imposed, and the stocks rebuilt to sustainable levels.

Nothing illustrates that better than the recreational winter flounder fishery in the state of New York.

New York fishes on what is known as the southern New England/Mid-Atlantic stock of winter flounder (Southern Stock). Such flounder spawn in inshore bays and estuaries during late fall and early spring. When waters warm in late May and June, much of the population moves offshore for the summer, then returns to the bays when the waters cool in the fall; the remainder of the population remains in inshore waters, where it once supported a modest fishery during the summer.

When winter flounder are offshore, in Federal waters, they are managed by the National Marine Fisheries Service (NMFS), acting in conjunction with the New England Fishery Management Council, which refused to impose hard quotas on the fishery until compelled to do so by the most recent reauthorization of the Act. As a result, the Southern Stock became seriously overfished, and remains so today.

When winter flounder are in state waters, they are managed by the states, acting collectively through the Atlantic States Marine Fisheries Commission (ASMFC). While in state waters, winter flounder may be particularly vulnerable, both when they are aggregated on their spawning grounds and when they group together in thermal refuges near ocean inlets during the summer. Despite such vulnerability, ASMFC has been reluctant to adopt regulations more restrictive than those adopted by NMFS (although when NMFS imposed a brief moratorium on harvest of the Southern Stock a few years ago, ASMFC refused to impose a similar moratorium inshore, instead merely imposing more restrictive regulations that allowed both the commercial and recreational fisheries to continue).

In the late 1980s, when New York recognized that the Southern Stock had begun to decline, it proposed rules to limit the recreational harvest, which had previously been completely unregulated. The recreational fishing industry objected, arguing that their customers needed the "perception" that they could have a "big day," and bring home a large number of fish, or they wouldn't bother to go fishing at all. That argument won the day, inadequate regulations were imposed, and the fishery entered a cycle of decline in which regulations, always opposed by the recreational fishing industry, were never stringent enough to halt the Southern Stock's decline.

The effect on both the fish and the recreational fishing industry was catastrophic. New York's winter flounder population collapsed, and so did the fishery. NMFS' recreational effort estimates show that in 1986, New York anglers made over 1 million fishing trips targeting winter flounder. Thirty years later, in 2016, New York anglers made only about 74,000 such trips, less than 7 percent of the trips made three decades before.

Because they sought to avert the whatever minor economic impacts might have accompanied regulations restrictive enough to rebuild, or at least stabilize, the Southern Stock, New York's recreational fishing industry has now lost the economic benefits that would have accrued from nearly 1 million winter flounder fishing trips each year. That is not income that can easily be replaced by anglers fishing for other species, because the winter flounder fishery was most actively prosecuted during seasons when few other inshore fish are available; in the 1980s, I used to have my boat in the water by mid-March, so that I could fish the entire winter flounder season. Today, I launch the boat in mid-May, as without the flounder, there is little reason to be on the water any sooner. Most other local anglers have done the same thing. That delay represents 2 months' income denied to tackle shops, gas docks, boat liveries and other fishing-related businesses, all because the industry fought needed fishery regulations that could have kept the stock healthy and kept anglers on the water.

When some angling spokespersons argue that Magnuson-Stevens doesn't adequately address the needs of recreational fisheries, that "alternative management measures" are needed to properly regulate anglers or that Magnuson-Stevens needs to be more "flexible," they are, in effect, arguing that Magnuson-Stevens should be weakened, to allow other fish to be managed in the same way as winter flounder, with economic concerns given parity with biological imperatives. The story of the Southern Stock winter flounder demonstrates that such management, while superficially attractive to the recreational fishing industry, will ultimately cause such industry serious harm.

Critics of the Act, who claim that the law needs more “flexibility,” are essentially arguing that firm rebuilding schedules and hard-poundage catch quotas often do not allow anglers to take home enough fish. They ask that the Act be amended to allow longer rebuilding times and the less restrictive regulations that such longer rebuilding times would bring.

However, most anglers are more concerned with the abundance that comes from a fully rebuilt resource than they are with bringing a lot of fish home.

In 2013, the National Marine Fisheries Service released a report titled “Attitudes and Preferences of Saltwater Recreational Anglers: Report from the 2013 National Saltwater Angler Survey, Volume I.” That report, developed from a survey of anglers on every coast of the United States, found that more than 80 percent of anglers just thought that it was important (either “extremely important” or “somewhat important”) to merely catch fish when they go fishing. More than 60 percent said that it was important to “know that I will encounter abundant fish.” On the other hand, only about 40 percent said that it was important “to catch as many fish as I can for consumption,” while fewer than 40 percent thought it was important to catch the bag limit of whatever they were fishing for. Most anglers surveyed, roughly 90 percent, valued spending fishing time with family and friends more than they did any fish-related aspect of the sport. Thus, the need to add “flexibility” to the Act in order to keep anglers fishing appears to have little objective support.

Striped bass, although not a federally-managed species, illustrate the importance of abundance. In 1986, when the Atlantic striped bass stock was in the midst of a collapse, NMFS data reveals that East Coast anglers made about 300,000 trips targeting the species. Strict harvest regulations imposed by ASMFC managed to successfully rebuild the population; in 1995, the year that the stock was officially declared “recovered,” increased abundance caused that effort figure to increase by more than an order of magnitude, to more than 5,000,000 trips. As the stock continued to grow, anglers fished even more, making over 8,700,000 million trips in 2003, the year the biomass peaked, and more than 10,500,000 trips in 2007, when larger fish from the dominant 1993 and 1996 year classes were readily available to recreational fishermen.

However, as the striped bass stock began to decline, plagued by the twin problems of below-average recruitment and overfishing, effort declined as well, dropping to about 6,100,000 million trips—nearly as few as were made in 1995, when the stock was newly recovered—in 2014, when the flexibly managed striped bass population again hovered just above the threshold that denotes an overfished stock.

ASMFC left recreational striped bass regulations unchanged from 1995 through 2014; for all of that time, it allowed coastal anglers to take home two striped bass per day, provided that they were at least 28 inches long (regulations were slightly different, but still consistent, in the waters of Chesapeake Bay).

Thus, it is clearly abundance, rather than the size of the allowable harvest, that drove angler effort, and what is true in the striped bass fishery is true in other fisheries as well. Abundance, that allows anglers to reliably encounter fish, is far more important than bag and size limits in encouraging angler participation.

There is another strong argument against adding flexibility to the Act: It doesn’t work.

On the East Coast, fishermen exist in a living laboratory that allows us to experience the consequences of various approaches to fisheries management. In the Mid-Atlantic, where our regional fishery management council was quick to adopt regulations consistent with the intent of the Act, we enjoyed a number of years where no council-managed stock was either overfished or experiencing overfishing. Although a combination of 6 years of below-average recruitment and recreational overharvest has recently subjected one species, summer flounder, to overfishing again, other species under the jurisdiction of the Mid-Atlantic Fishery Management Council remain abundant and support active fisheries.

In New York, we once fished for species such as cod, pollock, various hakes and winter flounder, all of which are managed by the New England Fishery Management Council. The New England Council, unlike the Mid-Atlantic, inevitably tried to temper the Act’s mandates with various economic considerations. Thus, it eschewed hard-poundage annual catch limits for most species until it was compelled to impose them. Instead, it adopted alternative management measures such as trip limits, limits on days at sea and other so-called input controls, which theoretically complied with the Act, but never managed to get overfishing under control or rebuild most overfished stocks. As a result, New York’s recreational fisheries for cod, pollock, silver hake (“whiting”) and white hake have declined precipitously, winter flounder have collapsed and red hake (“ling”) are far less abundant than they were a few decades ago.

New York's inshore fisheries are managed in cooperation with ASMFC, which employs a "flexible" management system that does not require overfishing to be ended, stocks to be rebuilt by a particular deadline or the best scientific information to be used when evaluating the health a stock. It hasn't worked.

The fate of tautog, an inshore food fish caught between Massachusetts and Virginia, demonstrates that fact. ASMFC knew as early as 1996 that fishing mortality had to be significantly reduced. However, since the reduction would inevitably involve some economic distress to the fishing industry, and there was no legal requirement to end overfishing or rebuild the stock by any time certain, ASMFC kept putting off the required reductions. Today, 21 years later, the species remains overfished and subject to overfishing, as large segments of the local recreational fishing industry are again girding to fight the regulations needed to rebuild the stock.

Since the Act was amended in 1996, and provisions that required managers to end overfishing and rebuild overfished stocks by a time certain became a part of the law, Federal fisheries managers have successfully rebuilt 39 stocks, and many others are well on the road to recovery. During the same period, ASMFC, employing its flexible management approach, has failed to rebuild a single stock that falls under its sole jurisdiction, and has seen a number of stocks, including American eel, the southern New England stock of American lobster, American shad, northern shrimp, tautog and weakfish, decline during that time.

It could also be easily argued that ASMFC, and its failure to impose adequately restrictive restrictions on its member states, is responsible for the overharvest in the recreational summer flounder fishery, as it is ASMFC, and not NMFS, which approves all recreational regulations for that species.

Even striped bass, ASMFC's singular fisheries management success story, are now far less abundant than they once were. Although the stock was declared fully recovered in 1995, and became even more abundant shortly after that, the lack of an annual catch limit, coupled with a failure to respond to increased recreational fishing effort, led to a decade-long decline that now has the population hovering just above the biomass threshold that determines an overfished stock.

It is thus clear that the Act, with its current, mandated annual catch limits and clear rebuilding deadlines, provides the only framework for fisheries management that has met with consistent success. It should also be clear that so-called flexibility provisions would only weaken the Act and render it less effective.

The same can be said of so-called "alternative management measures" that would replace hard-poundage annual catch limits with other means of regulating recreational fisheries.

Annual catch limits are established to prevent overfishing that could threaten the health of the stock. Because any regulatory scheme involves judgment calls, there will sometimes be miscalculations and overfishing will occur. However, a single incident of overfishing, so long as it is quickly detected and remedied, is unlikely to harm a healthy stock, although undetected overfishing can cause real harm, particularly if a stock is already in decline.

Some angling and boating organizations have argued that poundage-based catch limits should be replaced with limits based on a fishing mortality rate. On its face, such suggestion is pointless, as poundage and fishing mortality rates are just two ways to express the same value. An instantaneous fishing mortality rate is easily translated into the percentage of fish that may be removed from a stock each year; multiplying that percentage by the biomass estimate yields a hard-poundage annual catch limit. Similarly, the number of fish removed from the stock over the course of a year, divided by the biomass estimate, yields a percentage that can be translated into the fishing mortality rate. Thus, from a management standpoint, there is no real difference between the two values.

However, what proponents of a fishing mortality rate standard seem to be seeking is not an annual evaluation of fishery performance, but rather a longer-term process that requires a full stock assessment. While estimates of recreational landings are available 45 days after the close of each 2-month "wave," so overfishing can be detected, and addressed, relatively quickly, preparing even an interim stock assessment is a much longer process.

Because of that, using assessment-based fishing mortality rates, rather than annual catch limits, to regulate a recreational fishery could allow overfishing to continue unabated for a substantial period of time; depending upon the frequency of the assessments, it could take several years before it is even detected.

Again, striped bass provide an example.

Transcripts of ASMFC Striped Bass Management Board meetings, along with Striped Bass Technical Committee reports and stock assessment updates show that there was concern about a decline in striped bass abundance as early as 2007. A 2011 stock assessment update indicated that the striped bass stock would probably

become overfished by 2017. However, the Striped Bass Management Board chose to take no action because the stock was not yet overfished. A new stock assessment was finally undertaken in 2012, and completed in 2013. Based on that assessment, which showed that overfishing had occurred in 6 of the previous 10 years, more restrictive regulations were adopted in 2014, but not imposed until the 2015 fishing season. Because of the long delay, a stock that had still been very abundant, if already declining, in 2007 nearly became overfished a decade later due to a delay in adopting needed harvest cutbacks.

While the once-abundant striped bass stock could survive such a dilatory process, applying it to populations that have already suffered sharp declines in abundance, such as summer flounder, or to still-overfished but rebuilding stocks such as Gulf of Mexico red snapper, could easily result in undetected years of overfishing driving the stock well below the biomass threshold before any action is taken, an event that would do serious harm to both the stock and those who fish for the affected species.

The same problems occur when efforts are made to change the way fisheries data is gathered.

As a rule, fishermen don't understand the concept of unbiased surveys, which are needed to properly assess fish stocks. Instead, they constantly complain that scientists aren't fishing "where the fish are," and argue that if they could do the sampling, they would prove that there are more fish in the ocean than managers believe. Thus, we see some pending legislation propose that data obtained from fishermen and fishing communities be used by fishery managers when preparing stock assessments, without providing any standards that should be used to assess the quality and accuracy of such data.

When the striped bass population collapsed in the late 1970s and early 1980s, there were anglers on Cape Cod, Massachusetts who didn't believe that there was any scarcity, because they happened to have a local abundance of big fish off their shores, and were catching plenty of them. Winter flounder have become so scarce in New York's bays that they are suffering from inbreeding, yet the few fish that remain tend to be found together, so the angler that happens to know where to find them can catch a number of flounder in a short time. The same thing is happening with cod off New England; some commercial fishermen are saying that they are catching more cod than they ever have before, because the remaining fish school tightly together, and those who know where to find them quickly fill their nets. The Commonwealth of Massachusetts has created its own cod survey, hoping to find that its fishermen are right, but up to now, the survey, conducted according to scientific protocols, is confirming NMFS' contention that the cod population has fallen into a very deep decline.

Using anglers' reports, whether voluntary or required, to supplement or contradict NMFS' Marine Recreational Information Program (MRIP), is flawed for similar reasons. Historically, anglers' reports, even when mandated by law, are not reliable. When I attended NMFS' recreational fishing conference in 2014, I spoke with a member of the agency's Highly Migratory Fisheries division, who lamented that only about 20 percent of anglers report their bluefin tuna landings, even though reporting within 24 hours is required by law. More recently, according to the *Tuscaloosa News*, the state of Alabama has revealed that, during the state red snapper season, only about 7 percent of anglers that caught red snapper reported those catches to the state, even though such reporting is mandatory. Such discouragingly low compliance rates cast serious doubts on the validity of angler-generated data.

Accurate stock assessments, and the effective regulations that are based on such assessments, require unbiased data collected in accordance with a statistically valid methodology, which can survive the rigors of a scientific peer review. Thus, data obtained from non-scientific sources should be viewed with great skepticism.

Having said that, some of the criticism of MRIP is valid, not because MRIP is flawed, but because the data isn't being used properly. The Act states that stocks of fish should be managed as a unit, and the MRIP Handbook issued by NMFS makes it clear that MRIP accuracy increases with the number of samples taken. That being the case, when NMFS permits the states to adopt state-specific regulations, that differ from those of their neighbors, will inevitably cause problems.

MRIP estimates for landings in any particular state are based on far fewer samples than estimates for landings along the entire coast, and thus are less accurate. When the state data is broken down further, to allow states to change size and/or bag limits during the same fishing year, as is the case with black sea bass, samples become smaller yet, and the data even less accurate. Regulations that are based on such data cannot properly govern harvest, as they are not based on reliable information. Language that clarifies the requirement that a stock be managed as a single unit, with consistent regulations, would significantly improve the accuracy of fishery management measures.

In the end, we must all realize that if we want a fishing industry, it helps to have fish. Not just small, overfished populations, but an abundance of fish so that even anglers will very modest skills can go down to the shore with a reasonable expectation of catching something, even if they don't catch too many at any one time.

The decline of New York's recreational fishing industry parallels the decline of its recreational fishing experience. At one time, we had a vital, year-round recreational fishery.

Throughout the year, angling businesses did well. Some season saw some fish more abundant than others, but there were always enough fish of some sort to keep anglers active and content.

Today, New York's angling industry sits atop a tippy, three-legged stool. One leg of that stool is made up of striped bass, another of summer flounder. The third is made up of everything else, none of which is abundant enough or popular enough to support the stool by itself.

The spring mackerel and pollock runs, and the New York bight silver hake fishery, are entirely gone. Swordfish no longer fin out within sight of Montauk Lighthouse. Winter flounder have collapsed, and the cod, weakfish and tautog fisheries are badly diminished. Offshore, white marlin are rarely seen on the inshore grounds, the canyon tuna fishery is a shadow of it was and giant bluefin are scarce. Atlantic bonito and inshore yellowfin tuna are also scarce, and even sharks have become smaller and harder to find. Only black sea bass, bluefish and scup, all managed by the Mid-Atlantic Fishery Management Council in strict compliance with the Act, give this leg strong support.

That should cause concern, because if any leg of that three-legged stool collapses, New York's angling industry will collapse right along with it. The fact that populations of both striped bass and summer flounder are close to their biomass thresholds should make that concern greater still.

Making the Act more flexible, weakening its requirements to use the best available science, or allowing anglers to overfish will not, in the long run, help fishermen, and the businesses that they support. Our fishery cannot long survive if it depends on a handful of still-available species; we must return currently depleted species to real abundance, so that anglers and angling-related businesses can spread their effort over a number of stocks, instead of concentrating on just one or two.

Thus, it is critical that the conservation and management provisions of the Act remain strong, so that stocks are promptly rebuilt and not subject to overfishing. Only the best, peer-reviewed science should be used in assessments, and managers must act on such science, whatever its conclusions. Finally, the Act must not concentrate merely on the species we fish for, but on the habitat in which such fish live, assuring that there are adequate forage species for them to feed on, healthy corals, sponges and other sessile life to provide habitat and nursery areas, and intact ecosystems in which our fish function.

By achieving those goals, Congress can assure that the Act remains the most comprehensive and most effective fisheries management law not only in the United States, but in the world.

Thank you for considering my comments.

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QUESTIONS SUBMITTED FOR THE RECORD BY REP. GRIJALVA TO CHARLES WITEK,  
RECREATIONAL FISHERMAN, WEST BABYLON, NEW YORK

*Question 1. The 10-year time frame for rebuilding that is currently provided in the law has an exception for situations when rebuilding is not possible within 10 years. Opponents to the 10-year time frame speak of it as an ironclad mandate, but what percentage of rebuilding plans are subject to a strict 10-year time frame and what percentage are not?*

*Answer.* According to a list of rebuilding plans in effect or in preparation provided by the National Marine Fisheries Service, as of December 31, 2016, there were 47 stocks that were either overfished or subject to a rebuilding plan. Of those stocks, only 13, or about 28 percent, are subject to rebuilding time frames of 10 years or less. One of the stocks subject to a 10-year rebuilding deadline, the Georges Bank/Gulf of Maine stock of white hake, is no longer overfished, but has also failed to completely rebuild within 10 years; it is in its 13th year of rebuilding, and fishing continues at levels consistent with the recovery of the stock.



*1a. Can you please elaborate on those situations that are given an exemption to the 10-year time frame, and explain how those are determined?*

Answer. Of the 34 overfished and/or rebuilding stocks not subject to the 10-year time frame, 6 (13 percent) fall under the exception for stocks managed “under an international agreement in which the United States participates.” Three others (6 percent) have no set rebuilding deadline due to insufficient knowledge regarding the life histories of the relevant species, while two stocks (4 percent) have only recently been declared overfished, and no rebuilding plans have yet been developed. The remaining 23 stocks (49 percent) fall under the exception to the 10-year timeline created for cases “where the biology of the stock of fish” requires a longer rebuilding period. While I am not familiar with how the rebuilding times have been determined for each of those 23 stocks, current guidelines adopted by the National Marine Fisheries Service, which may be found at 50 C.F.R. 600.305 *et seq.*, provide three methods for determining rebuilding timelines for stocks that, for biological reasons, cannot be rebuilt within 10 years. The relevant regional fishery management council may select a rebuilding time that is equal to (1) the minimum time it would take to rebuild the stock in the absence of any fishing mortality, plus one mean generation (the average time it takes a fish to mature and first produce young) for the species in question; (2) the time it would take to rebuild the stock if it was fished at 75 percent of the maximum fishing mortality threshold; or (3) twice the time that it would take to rebuild the stock in the absence of any fishing mortality.

*Question 2. We heard from Mr. Wiley that alternative management measures do not give recreational fishermen a “blank check” when it comes number of fish. However, the “blank check” is what happens when it comes to recreational reporting. Mr. Kaelin stated that the accountability measures that we see in the commercial fishing industry are much stronger in comparison to the recreational side. Can you please provide some potential remedies for the lack of data and accountability in recreational fisheries?*

Answer. Lack of data and lack of accountability in recreational fisheries are two different problems with different solutions, although they do intersect when recreational fishermen challenge the need for accountability measures by citing allegedly poor data.

The lack of data, or at least the alleged lack of reliable data, is by turns the simplest and the most difficult problem to remedy. It is the simplest problem to remedy because it could readily be addressed if more funding was made available to pay for data-gathering efforts. That is particularly true in the case of the Marine Recreational Information Program (MRIP), used to estimate recreational landings, as the precision of the landings estimates is directly related to the number of anglers surveyed (In the case of MRIP’s forerunner, the Marine Recreational Fishing Statistical Survey, the precision of the estimates was inversely related to the square of the number of surveys made; that is, to cut error in half, it was necessary to interview four times as many anglers, etc. As far as I know, the same rule applies to MRIP.) Additional funding would also permit more stock assessments to be made, additional research to be conducted to inform such assessments, etc. Having said that, the data issue is, as a practical matter, a very difficult problem to remedy because Congress has historically been very reluctant to appropriate adequate funds to the National Marine Fisheries Service for data-collection purposes; the budget proposal recently adopted by the House continues such practice of underfunding needed research.

Accountability measures in the recreational fishery present a more complex issue. In the commercial fishery, mandatory reporting makes it possible to accurately estimate landings in near real time. In the recreational fishery, landings are estimated, and such estimates are only available 45 days after the end of each 2-month “wave.” Because of that combination of estimated landings and the delay before such estimates are finalized, the recreational fishery is not amenable to the in-season accountability measure most often used in the commercial fishery—shutting down the fishery when the annual catch limit is reached. Uncertainty inherent in the recreational landings estimates also make the most common retrospective accountability measure used in the commercial fishery—pound-for-pound paybacks in the following season—difficult to impose in the recreational fishery; when such paybacks are employed, as they are in the Gulf of Mexico recreational red snapper fishery, they are frequently subject to challenges based on the quality of the landings data. Thus, the most appropriate, and arguably the most effective, accountability measure for use in recreational fisheries is a prospective one, reducing the Acceptable Biological Catch by some percentage that reflects the management uncertainty created by imprecise landing estimates to produce a more conservative Annual Catch Limit. Creating such a buffer for management uncertainty would inevitably meet

initial resistance from the angling community; however, a properly constituted buffer that leads to regulatory stability would, in the long term, be welcomed by anglers previously frustrated by constantly changing regulations that appear unrelated to the health of the relevant fish stock.

2a. *Can you elaborate on tools like mandatory reporting, descender devices, or others, and how these can help increase access for recreational fishermen?*

Answer. Tools like mandatory reporting and descending devices could increase access for recreational fishermen by reducing uncertainty in estimates of recreational fishing mortality and thus lead to relaxed regulations; mandatory reporting could reduce the management uncertainty arising out of recreational harvest estimates, while tools such as descender devices could reduce actual discard mortality and the scientific uncertainty arising out of estimates of such mortality. Unfortunately, despite how beneficial such tools might be for recreational fishermen, there is little reason to believe that anglers are willing to embrace their use.

Mandatory reporting is already in place in some recreational fisheries. In the recreational Atlantic bluefin tuna fishery, anglers are required to report all fish landed within 24 hours, yet when I spoke with someone employed by the National Marine Fisheries Service's Highly Migratory Species Division at the agency's 2014 Recreational Fisheries Conference, I was told that the Service believes that only about 20 percent of anglers report their harvested bluefin. A similar situation exists in Alabama's red snapper fishery, which also requires that all red snapper caught be reported to the state before or immediately after landing. According to a June 24, 2017 article in the *Tuscaloosa [AL] News*, the Alabama Marine Resources Division estimates that a mere 7 percent of anglers reported their red snapper landings during Alabama's 2017 state season; that figure improved slightly, to 22 percent, during the original, 3-day 2017 Federal season, but even that figure is dismally low for what is supposed to be a mandatory reporting program. There are many reasons for such noncompliance. Some anglers undoubtedly just forget. Others feel that they can forego the trouble of reporting with impunity. And there is a significant portion of the angling community who believes that, if they don't report their catch, harvest estimates will be lower, and lead directly to more relaxed regulations in the future (at least in the northeastern bluefin tuna fishery, which I have actively participated in for more than 40 years and so know very well, there is also a significant number of anglers who do not adhere to the regulations, and so don't report in an effort to avoid self-incrimination). As a practical matter, only mandatory reporting requirements that can be easily enforced (*e.g.*, the operator of the vessel must call in and report catch prior to landing, so that an enforcement officer meeting the boat at the dock can easily determine whether the required report was made) and carry significant sanctions for noncompliance are likely to be followed by the majority of anglers.

Descending devices offer a similar challenge. Research has demonstrated that they are effective in reducing the impacts of barotrauma and so in reducing discard mortality. The key question, however, is whether anglers, well out of sight of both land and the eyes of enforcement officers, will employ them on a regular basis, particularly when the fishing is fast and time spent employing descender devices is time when anglers could, instead, be catching more fish. I suspect that many (but far from all) private boat anglers would employ descenders, particularly when fishing is relatively slow. I suspect that many (but also far from all) charter boat operators would use them as well. However, they probably would not meet with much acceptance in high-volume deep water party boat fisheries where, as a practical matter, a three- or four-person crew would be physically unable to employ descender devices to return all of the fish released by 40 or more passengers over the course of a trip. They would simply become overwhelmed. Anti-regulation sentiments in the party boat fleet, particularly those boats that sail from the upper Mid-Atlantic ports that I am most familiar with, would also militate against the use of descenders. The problem is encapsulated in a February 2012 article in the *Asbury Park [NJ] Press*, which described an incident aboard the party boat *Jamaica*, which sails out of Brielle, New Jersey. According to that article, although the boat sailed in search of cod and other groundfish, it returned to the dock with 819 illegal (out-of-season) black sea bass. As the reporter noted, "Black sea bass are not catch-and-release fish. They have a swim bladder that enables them to maintain their buoyancy in deep water. When the fish are reeled up from the depths, their swim bladder expands . . . The fish can then no longer return to the bottom . . . Instead of swimming, the fish float on the surface and die." Thus, black sea bass are exactly the kind of fish that would benefit from the use of descenders. However, when the captain of the *Jamaica* was asked whether he knew that his passengers were keeping so many illegal fish, he reportedly responded "I didn't think it was that many. And I'm not

getting paid by the state of New Jersey to take fish out of people's buckets." While one can only speculate as to whether someone with such an attitude would bother to use descenders to release 819 black sea bass, caught by roughly 40 anglers, over the course of a trip, the quote does give reasonable cause to believe that, absent a viable enforcement mechanism that can lead to substantial penalties, regulations requiring descenders would meet with only limited compliance.

Regardless of the tools involved, and how beneficial the use of such tools might be to recreational fishermen, regulations requiring their use would probably not currently meet with widespread buy-in by the angling community. Various angling rights groups and angling industry members have, over the past several years, campaigned against Federal fisheries management and Federal fisheries regulations. Such campaign has undercut the stature of fisheries managers and damaged the credibility of the regulatory process in anglers' eyes. In such an environment, the greater angling community is unlikely to cooperate with any regulatory requirements that they view as burdensome, including mandatory reporting and the use of descenders. Such situation is unlikely to improve unless and until spokesmen for the industry and for major angling organizations accept their responsibility to work with regulators to improve the conservation and management process, rather than standing outside the process while attempting to undercut it in an effort to increase anglers' short-term landings, as is currently the case.

*Question 3. Some argue that scientific uncertainty makes data unreliable or overly conservative. Can you please explain why it is important to manage for uncertainty, and why it is important to build in buffer room around catch limits and rebuilding timelines?*

Answer. Estimates of stock size, spawning potential, fishing mortality and other parameters critical to the management process inevitably include some degree of uncertainty, which is set out in the relevant scientific paper (e.g., "We believe that the current spawning stock biomass for species 'X' is 40,000 metric tons; there is a 95 percent probability that such biomass is no lower than 35,800 mt and no higher than 43,200 mt"). From a biologist's perspective, such uncertainty doesn't make the data unreliable; however, the uncertainty must be considered when establishing management measures. Fishermen will often argue that uncertainty means that the actual size of a population may be higher than the point estimate used to estimate the biomass, and so regulations based on such point estimate are unduly conservative; however, in making such statements, they seem to forget that the error can be in either direction, and that it is just as likely that there are fewer fish in the population than the point estimate indicates. Thus, if a regional fishery management council establishes an annual catch limit precisely at the overfishing limit, and the point estimate actually overestimates the size of the stock, overfishing will occur and the stock could fail to recover, and even fall into decline. I saw this happen when I sat on the Mid-Atlantic Fishery Management Council from 2002–2005, as for most of that period, the Council routinely set the summer flounder catch limit right at the point estimate that had a 50 percent chance of preventing overfishing. For the first year or two, that worked, but because there was no allowance for scientific uncertainty, and because the model used to assess the stock was found to overestimate recruitment and underestimate fishing mortality, the species' recovery eventually stalled, and more conservative measures were needed. That illustrates why language included in Magnuson-Stevens during the 2006 reauthorization, which prevents a regional fishery management council from setting an annual catch limit higher than "the fishing level recommendations of its science and statistical committee or the peer review process" is critically important; it assures that any annual catch limit will take account of scientific uncertainty, and be set far enough below the overfishing level to prevent overfishing from occurring.

The same principle applies to rebuilding timelines or any other parameter; without adopting a buffer large enough to take uncertainty into account, managers make it less likely that the objectives of the fishery management plan will be realized. Fishermen often argue that the data is too uncertain to form the basis for restrictive regulations; in fact, the opposite is true. When data is highly uncertain or unavailable, the likelihood of inadvertently overfishing the stock is correspondingly high. Thus, more uncertain the data, the more conservative regulations need to be to avoid harming the stock and also to avoid harming the people who depend on healthy fish populations.

3a. *How does this protect stocks from being overfished?*

Answer. As mentioned in the response immediately above, uncertain data raises the risk of overfishing. The best way to avoid harm to the stock is to adopt management measures conservative enough to take full account of such scientific uncertainty.

*Question 4. Some suggest that the use of the “best available data” has severely restricted councils, and there is often contention with how stock assessments are conducted. However, we’ve seen in the cod fishery that the state managed assessments found the same results as NOAA Fisheries—there simply aren’t enough fish. Despite this, many in the industry say otherwise. Would you say that it’s advisable to mandate incorporation of any data source, including those that do not require a scientific assessment process, to make management decisions?*

Answer. The accuracy and quality of stock assessments is directly dependent upon the accuracy and quality of the data on which such assessments are based. Thus, it is of the utmost importance that all such data is statistically valid and collected using methodologies capable of passing rigorous peer review. Fishermen often question the validity of the data (or, at least, the validity of data showing that the population is at low levels; data that shows that fish are more abundant than expected, such as the 2008 assessment of Gulf of Maine cod—now known to be wrong—are rarely if ever questioned, but instead are enthusiastically accepted by fishermen willing and eager to increase their catch), arguing that scientists aren’t sampling “where the fish are” and instead conduct random surveys that primarily sample places where they are no fish (*e.g.*, samples taken during the National Marine Fisheries Services’ northeast trawl surveys). Such criticism demonstrates a lack of understanding of how statistically valid surveys are made; random trawl tows, made in a consistent manner each year, create an abundance index that reliably reflects the state of the stock. Such criticism also ignores that fact that the most important data may not be the fish that *are* caught over the course of a trawl survey in the places where they remain, but instead the fish that are *not* caught over the course of a trawl survey in places where they should be and historically were. Even when a fish population has fallen very low, there will be places where the remnants of such population congregate and fish can be readily caught. New England cod, cited in the above question, are a good example of this phenomenon; when the population level falls, the remnants of the stock tend to school tightly together, and fishermen trawling through such aggregations can catch many fish in a very short time. Yet vast areas of bottom may hold very few, if any, cod at all, even though fish abounded there a few decades ago. It is this fact that the Commonwealth of Massachusetts’ trawl survey, referred to in the question, has confirmed.

Information provided by fishermen and other non-scientific sources, which is not collected pursuant to a statistically valid survey, should never be included in stock assessments. Such information is at best anecdotal, and reflects the fishermen’s spatially and temporally limited perspective with respect to abundance. It reflects the fisherman’s biases, and his/her propensity to fish in places where fish can be found; it in no way reflects a stock’s abundance throughout its entire range, and it in no way reflects a stock’s historical abundance. The latter can be particularly significant. When summer flounder were in the midst of their recovery a decade ago, critics of the management process constantly called (and sometimes still call) the biomass target “unrealistic,” arguing that the population was “the highest that it has been in 30 years.” What was missing from their argument was the fact that the stock had been overfished for a very long time, and that it had not been truly abundant for *more* than three decades. We see the same thing today in the Gulf of Mexico red snapper fishery, where anglers claim that “red snapper are more abundant than they have ever been.” While there is no question that the red snapper rebuilding plan is working, the stock first fell into decline during the 1960s. An angler would have to have been fishing no less than 55 years ago to have experienced a healthy stock; today’s stock levels may seem high when compared to the stock 15 years ago, when abundance was near all-time lows, but only because few people fishing today remember what a truly abundant stock looks like. They may be “more abundant than they have ever been” during a complaining angler’s lifetime, but that only demonstrates that such angler is too young to have experienced a healthy stock. That sort of “shifting baseline” increases the level of bias inherent in information provided by anglers.

Thank you for requesting answers to the above questions. Please feel free to contact me with any other questions that you might have.

Mr. LAMBORN. OK. And now we will hear from Mr. Martin for 5 minutes.

**STATEMENT OF SEAN MARTIN, PRESIDENT, HAWAII  
LONGLINE ASSOCIATION, HONOLULU, HAWAII**

Mr. MARTIN. Good afternoon, Mr. Chair, and aloha, members of the Committee. My name is Sean Martin. I am President of the Hawaii Longline Association, which represents the interests of the Hawaii-based commercial longline fishery. I thank the Committee for inviting me to testify on the successes and challenges of the MSA.

Over 140 vessels participate in the Hawaii longline fishery. We annually land around \$100 million in dockside value of tuna and other species. The fishery supports 2,500 jobs, and accounts for several hundred million dollars in the seafood industry. The longline fishery is the number-one domestic food supplying industry in Hawaii. We land fresh fish, and the Port of Honolulu ranks within the top 10 fishing ports in the United States for the last three decades. We operate in a very competitive arena, both for the fishing grounds in international waters, and for the U.S. domestic market.

The recent marine monument designations under the Antiquities Act prohibit us from fishing in more than half of the U.S. EEZs in the Western Pacific Region. Access to the high seas is being challenged by United Nations initiatives, as well. Closure of the U.S. waters and the high seas reduces our ability to compete, and increases the vulnerability of our markets to foreign takeover.

The MSA is a success. Overfished stocks have been rebuilt and few stocks are now overfished. Management measures are precautionary and based on the best-available science. The fishery Councils provide regional expertise in utilizing an effective bottom-up decision-making process that includes the fishing industry. I would like to highlight three key issues.

First, the MSA is being circumvented by other statutes and authorities. This includes the Endangered Species Act, the Marine Mammal Protection Act, Migratory Bird Treaty Act, National Marine Sanctuaries Act, and the Antiquities Act. These authorities do not require the same level of public consultation and transparency as the MSA.

Fisheries should be managed primarily through Fishery Councils under MSA. This ensures a transparent, public, science-based process which allows the fishing industry and stakeholders to be consulted. Impacts to fishery-dependent communities are considered, and it prevents regulations that might otherwise be duplicative, unenforceable, or contradictory.

Past administrations have established huge national marine monuments in the Pacific, totaling more than 760 million acres of U.S. waters under the Antiquities Act. Marine monuments have been designated around Hawaii, American Samoa, Guam, Northern Marianas Islands, and the remote Pacific island areas. All commercial fishing is prohibited in monument waters. In our view, prohibition of fishing in these pristine waters was unnecessary and harmful to U.S. fisheries. Fisheries operating in these areas were sustainably managed for decades under MSA and the Western Pacific Council.

HLA recommends that the MSA be amended to assure that the MSA process is the only process by which regulations affecting U.S. fisheries can be adopted.

Second, in 2016, Congress passed legislation that directs the Secretaries of Commerce and State to prevent U.S. tuna fisheries operating in the Central and Western Pacific from being disadvantaged, relative to other fisheries in the regions. The law is intended to level the playing field between U.S. and foreign fisheries. U.S. fisheries managed under MSA are sustainable, yet often marginalized within international fisheries commissions.

U.S. fishing interests require strong negotiators to advocate and support U.S. fisheries. While our fleet has been limited to 164 permits since 1991, some other nations have been expanding their fleets dramatically, and are continuing to do so.

The U.S. bigeye tuna catch limit has been cut over recent years, while other nations' catches threaten to supply U.S. markets with poorly monitored seafood. HLA recommends that MSA be amended to ensure that U.S. fisheries are not disadvantaged with regard to internationally imposed catch or effort limits.

And last, HLA supports the Regional Councils' efforts to achieve a more streamlined process for regulatory action. A fisheries management plan document contains a full discussion of impacts on fisheries, fish stocks, and associated species, including endangered species.

The National Environmental Policy Act requires duplicative evaluation. The analytical duplication between the MSA and National Environmental Policy Act is unnecessary, delays actions, and has a high cost. The Hawaii Longline Association recommends amending the MSA to authorize a single analytical document for any proposed regulatory action. This will streamline the process, eliminate duplication, and allow for more meaningful industry input.

Thank you again for the opportunity to provide our views on the successes and challenges of MSA.

[The prepared statement of Mr. Martin follows:]

PREPARED STATEMENT OF SEAN MARTIN, PRESIDENT, HAWAII LONGLINE  
ASSOCIATION, HONOLULU, HAWAII

My name is Sean Martin. I am President of the Hawaii Longline Association (HLA) in Honolulu, Hawaii. HLA is a nonprofit organization representing and advancing the interests of the Hawaii-based commercial longline fisheries in fishery conservation and management decisions. I thank the Committee for inviting me to testify on the successes and challenges of the Magnuson-Stevens Fishery Conservation and Management Act (MSA).

The Hawaii longline fishery consists of 140 active vessels. We land around \$100 million (dockside value) worth of tuna (bigeye and yellowfin) and tuna-like fish (swordfish, marlins, mahi-mahi, opah, wahoo) annually, supporting 2,500 jobs and producing several hundred million dollars in the associated seafood industry. The fishery provides jobs on fishing vessels, on the docks, at suppliers, and in the fish wholesale and distributor markets. We are the largest food producing industry in Hawaii, and we supply almost all the fresh tuna available in Hawaii. We operate in a very competitive arena, both for fishing grounds in international waters and for the U.S. domestic market. The recent marine monument designations established under the Antiquities Act prohibits us from fishing in 51 percent of the U.S. Exclusive Economic Zone in the Western Pacific region. Access to the high seas is also being challenged by recent United Nations initiatives. Closure of U.S. waters and the high seas hurts us, reducing our ability to compete and increasing the vulnerability of our markets to foreign takeover.

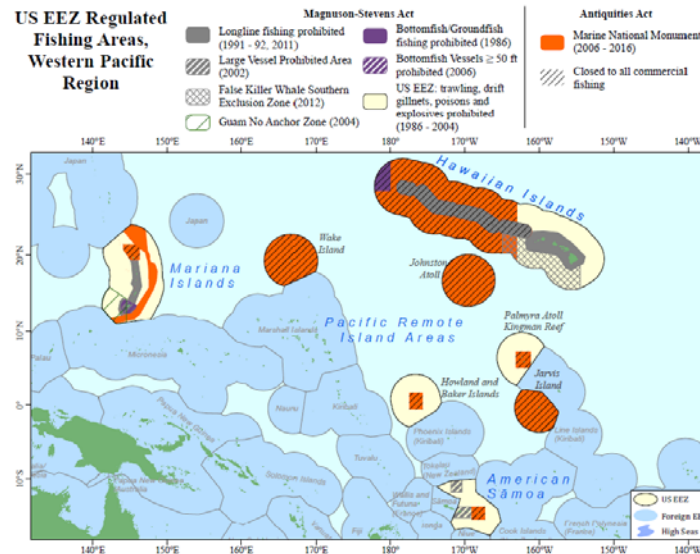
The MSA is a success and should be the principal source of authority for management of U.S. fisheries. Overfished stocks have been rebuilt, and few stocks are now overfished. Management measures are precautionary and based on the best scientific information available. The regional fishery management councils provide regional fishing expertise and utilize an effective bottom-up decision-making process that includes the fishing industry. The MSA also requires the evaluation of impacts on fish stocks as well as fishermen and fishing communities.

HLA has worked with the National Marine Fisheries Service and the Western Pacific Regional Fishery Management Council for over 25 years. Our intent has been to ensure that sound fishery data would be used in stock assessments and that this would be joined with solid market and fishing industry information so the Council would have a good basis for establishing regulations. We have collaborated on research into such areas as gear modifications to protect sea turtles, seabirds, and marine mammals. We are proud of our efforts and the Hawaii longline fishery is an iconic, internationally recognized model fishery. It is the most highly monitored, strictly regulated longline fishery in the Pacific.

HLA provides the following recommendations with respect to the MSA.

**1. Manage U.S. ocean fisheries through MSA processes.** In recent years, the management of fisheries covered by the MSA has been circumvented by other statutes and authorities. This includes the Endangered Species Act, Marine Mammal Protection Act, Migratory Bird Treaty Act, National Marine Sanctuaries Act, and the Antiquities Act. These Acts do not require the same level of public consultation and transparency as compared to the MSA. For our fishery, the biggest gains in protection have been achieved through the Council process. For example, sea turtle and seabird interactions were reduced by 90 percent as a result of industry cooperative research and Council developed regulations. In HLA's view, fisheries should be managed primarily through the fishery management councils under the MSA. This ensures a transparent, public, and science-based process which allows the fishing industry and stakeholders to be consulted. It provides that analyses of impacts to fishery dependent communities are considered, and prevents regulations that might otherwise be duplicative, unenforceable, or contradictory.

Past administrations have established huge national marine monuments in the Pacific totaling more than **760 million acres** of U.S. waters under the Antiquities Act of 1906. In our view, marine monument designations were politically motivated and addressed non-existing problems. Fisheries operating in these areas were sustainably managed for several decades under the MSA and the Western Pacific Council. There was no serious attempt to work with the fishing industry in the designations of these marine monuments. Public input was minimal. See attached map identifying U.S. waters closed to commercial fisheries.



**HLA recommends that the MSA be amended to ensure that the MSA process is the only process by which regulations affecting U.S. fisheries can be adopted.**

**2. Strengthen support for U.S. fisheries in the international arena.** In 2016, Congress enacted “Amendments to the Western and Central Pacific Fisheries Convention Implementation Act” (16 U.S.C. 6901 et seq.). The amendments direct the Secretaries of Commerce and State to seek to minimize any disadvantage to U.S. fisheries relative to other fisheries of the region and to maximize U.S. fisheries’ harvest of fish in the Convention Area. The amendments are intended to level the playing field between U.S. and foreign fisheries. U.S. fisheries managed under the MSA are sustainable, yet they are often disadvantaged within international fisheries commissions. U.S. fishing interests require strong U.S. government negotiators to advocate and support U.S. fisheries. For example, the Hawaii longline bigeye quota has been reduced to 3,345 metric tonnes (mt), while quotas for other countries have not been reduced (e.g. Indonesia). The WCPFC-imposed quotas are based on historical catch and do not match current fishing capacity. For example, Japan has a bigeye quota of nearly 17,000 mt, but only catches around 11,000 mt. China has been expanding its longline fleet from about 100 vessels in 2001 to over 430 vessels in 2015, and has a bigeye quota of around 7,000 mt. Our fleet has been limited to 164 permits since 1991. China is continuing to expand its longline fisheries and supplying U.S. markets with poorly monitored seafood.

**HLA recommends that the MSA be amended to ensure that U.S. fisheries are not disadvantaged with regards to internationally imposed catch or effort limits.**

**3. Simplify the MSA regulatory process.** HLA supports the regional councils’ efforts to achieve a more streamlined process for approval of regulatory actions. A fishery management plan document from a regional council typically contains a full discussion of impacts on the fisheries, on the fish stocks, and on associated species (e.g., endangered species, marine mammals, seabirds, etc.). The National Environmental Policy Act requires duplicative evaluation and incongruent public comment periods. The analytical duplication between the MSA and NEPA is unnecessary, delays needed actions, has a high cost, and provides more avenues for legal challenges and delays on non-MSA grounds. Also, it is often very confusing to the industry with regards to timing and where we should apply our input in the process.

**HLA recommends amending the MSA to authorize a single analytical document for any proposed regulatory action that will streamline the process, eliminate duplication, and allow for more meaningful industry input.**

Thank you again for the opportunity to provide our views on the successes and challenges of the MSA.

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Mr. LAMBORN. OK, thank you all for being here and for your testimony. At this point we will begin our questions for the witnesses. To allow all of our Members to participate, and to hear from all of the witnesses, under Committee Rule 3(d), Members are limited to 5 minutes for their questions.

I will yield the first opportunity to ask questions to the Full Committee Chairman, Mr. Bishop of Utah.

Mr. BISHOP. Thank you, Mr. Lamborn, and I apologize to the Committee, as well as the witnesses, that I have to go to another meeting in a few minutes. I apologize for that.

I thank you for being here. In the short time that I have been Chairman of the Committee, I think I have been to each of the regions you represent, so in the Northeast and in Florida, as well as in the Pacific.

I have heard many of the same complaints that you have highlighted today: simply, poor data to justify fishing management decisions, whether it be for commercial or recreational fishing. There simply seems to be a lack of scientific justification either for the data or even the methodology by which the data was collected. And



I think you have identified that in both your written and oral testimony. Access has simply been impacted.

Let me start with Mr. Martin, if I could. Thank you for being here and traveling the distance that you came here. Access seems to be impacted, not just in marine protected areas, but also because of the Antiquities Act, one of my favorite pieces of legislation.

Could I ask you about the abuses of the Antiquities Act? How critical is it to the economy of Hawaii and our Pacific territories that federally managed fisheries be managed by the principles of Magnuson-Stevens, and not by the impositions of the marine monuments and sanctuaries?

Mr. MARTIN. Thank you, Mr. Bishop. I do think that the importance of access to all of the waters that are available to us are important to U.S. fishermen. If you restrict access in one area, you oftentimes are just focusing the access, or focusing the effort on another area.

So, having access, particularly the Northwest Hawaiian Islands, which is the largest marine-protected area, or national monument in the United States, is very important to the longline fishery in Hawaii. Somewhere between 8 and 12 percent of the catch takes place in that particular area, and of course it varies from year to year. So, I do think that we are very focused on sustainable fishing, but sustainable fishing throughout a broad range.

Mr. BISHOP. OK. Mr. Kaelin, you have a new monument over in your area, too. Do you agree with what Mr. Martin just said?

Mr. KAELIN. Yes, sir, I do. I do, Mr. Bishop, and I want to thank you for the work that you have done. The Northeast Canyons and Seamounts designation was contrary to the approach that the Mid-Atlantic Council had taken to protect deep-sea corals, and also the approach that the New England Council was pursuing to do the same thing, and freeze the footprint of fishing.

The new monument designation set a shoreward boundary that needlessly eliminates commercial fishing with no biological benefit. So, we are absolutely opposed to that process, and would like to see those boundaries changed.

Mr. BISHOP. Thank you. And you guys had a compromise that could have worked and should have worked for everybody. I appreciate that.

Mr. Martin, I would go back to you. Do you see any scientific justification to support the Pacific Monument expansion?

Mr. MARTIN. No, we don't. I don't think—

Mr. BISHOP. That is good enough. You won me over with that answer there.

Mr. MARTIN. OK.

[Laughter.]

Mr. BISHOP. But that also means, were there existing protections under Magnuson-Stevens?

Mr. MARTIN. Yes, there were. In the 1990s, through Council action, there were areas that were set aside and prohibited from particularly longline fishing within those areas because of concerns about habitat and protective species within the area.

Mr. BISHOP. Look, I appreciate that. Mr. Wiley, it is good to have you here again. It has been a while. I think it has been a couple of years since the first time we saw you and you were talking about

red snapper. I believe you are still talking about red snapper, and I think there are going to be some questions about red snapper here again today.

I am appreciative of what Secretary Ross did in his action to give some relief, but that was, at best, a Band-Aid. We need to have a longer-term solution to that.

Can I just ask you—if you compare the Gulf of Mexico and South Atlantic, would you say that the issues are caused in both those places by a systemic problems with Federal fisheries management?

Mr. WILEY. Yes, sir, I would. I think the fact that we cannot provide access as the fishery grows and rebuilds is the fundamental problem, and that is part of the Act.

Mr. BISHOP. Thank you for that. Under my imposed self rules, I only have 44 seconds left, so I won't start the other question here, but I want to thank you. Once again, thank you all for being here. It is extremely important. This is an important piece of legislation we need to move. Don Young has to get his act together and get this thing passed.

Thank you for holding the hearing, and I appreciate the courtesy of allowing me to go first so I can go to my next meeting.

Mr. LAMBORN. Thank you, Mr. Chairman. We will now hear from Representative Huffman of California.

Mr. HUFFMAN. Thank you, Mr. Chairman.

Mr. Martin, in terms of the impact of the monument designation in your region, at least so far your industry has been having no trouble catching fish. Is that fair to say?

Mr. MARTIN. No trouble in catching fish, no. That is correct.

Mr. HUFFMAN. I mean the numbers I have seen—well, certainly last year was a banner year. The quota was reached by July 22. This year, NOAA shows that around 80 percent of the quota had been used as of July 11, and that is post-monument designation. I just wanted to point that out.

Mr. Wiley, you spoke about something we hear pretty regularly, and that is that recreational fishermen feel that the data collected on red snapper and other highly sought-after species is not good enough or timely enough to manage fisheries. And I wonder if there might not be something we can agree on here.

Do you support additional funding from Congress for NOAA and the interstate fishery commissions to conduct more fishery independent data collection and more frequent stock assessments?

Mr. WILEY. If it were steered properly to address the shortfalls, yes, sir, we would.

Mr. HUFFMAN. OK. I think that would be a good idea. Commercial fishermen are required by law, of course, to report their catches and discards, which is the reason why we have better data for commercial fisheries than we do on the recreational side. But I want to ask if you think there is more that we can do on the recreational side to try to answer this data challenge.

Do you think that mandatory reporting of recreational landings and discards, for example, would be a good idea?

Mr. WILEY. Well, I would not go to mandatory before we fully worked with the recreational community to go for tools that we already are putting in play, like using cell phone applications for reporting. Anglers are already reporting dead discards for our snook

harvest that feeds into our models and gives us great information. Very, very timely.

Mr. HUFFMAN. OK. That is a form of reporting, though. But you would prefer to give that a chance before making it mandatory?

Mr. WILEY. Sure I would.

Mr. HUFFMAN. Mr. Witek, what about you? Do you think recreational anglers can do more to see better data, more robust data, so we can manage these fisheries?

Mr. WITEK. I think they should. But, to date, the success has not been great. There is now mandatory reporting on bluefin tuna, and I spoke to someone in NMFS' highly migratory species unit a while ago and only about 20 percent of anglers who catch bluefin tuna actually report their catch, even though it is mandatory reporting.

In Alabama, they instituted mandatory red snapper reporting. Yet, there was an article—I believe it was in the *Tuscaloosa Times* a week or two ago—that said during Alabama's state season this year they estimate only 7 percent of anglers actually complied with the reporting requirement.

So, yes, we should. But we have to find a way to put some teeth in the requirement.

Mr. HUFFMAN. We heard from one of the witnesses about the very limited number of days on the Atlantic for red snapper. And I am hoping maybe you can correct me if I am wrong, but I know on the Pacific side one way we have been able to allow more fishing is to require recreational anglers to use descender devices, so that if they catch a fish that we are trying to protect, that we don't want them to keep, that fish can actually survive being returned back in to the water.

Yet, I understand that that is not used on the Atlantic side. Is that the kind of thing that the recreational fishing community can do, so that we cannot just answer this data problem, but also give them more days on the water?

Mr. WITEK. Yes, efforts to avoid barotrauma would be a very good idea, descenders or other devices.

Actually, some members of the recreational fishing industry have offered to make such devices available. But to date they are not used often enough.

Mr. HUFFMAN. OK. Mr. Witek, while I have you, I want to ask you about the decision by Secretary Ross to extend the private boat recreational red snapper season in the Gulf of Mexico well beyond what some, at least, feel is a sustainable level. And one of the witnesses praised that decision.

This decision, of course, over-rides the science-based Fishery Management Council process. It is believed by many that it will result in a harvest exceeding the science-based annual catch limit. We know that it is being challenged in court, and I have heard some pretty credible assessments that that challenge is likely to be successful.

So, we could have long delays in rebuilding this economically valuable fish stock. I am wondering if you would speak to why you believe—if you believe—that this action is damaging.

Mr. LAMBORN. I am afraid we have run out of time.

Mr. HUFFMAN. To be continued.

Mr. LAMBORN. I would now like to recognize, with unanimous consent, out of order, Representative Hice, who has a conflict in a few minutes.

Dr. HICE. Thank you very much, Mr. Chairman. I appreciate you holding this hearing. There are a lot of Georgians who go to the Gulf for recreational fishing.

I also, Mr. Chairman, want to thank you for having Mr. Scott here. I don't know that there is anyone who is any more informed in Congress on this issue, and more passionate about it, so I welcome him and his work on this area, as well.

Mr. Wiley, let me just go to you. Mr. Witek's testimony talks about alternative management measures, and that they are weakening MSA. Can you give a couple of examples of alternative measurements?

Mr. WILEY. Well, yes, sir. In Florida, our near-shore fisheries like red drum, spotted sea trout, snook, we manage more to a biomass scheme, where we actually use spawning potential ratios. We monitor closely, we do 3-year stock assessments, use solid science, and we also—the key to really making it work is we stay in tune with the anglers. We let anglers help provide data voluntarily to help us manage particular issues like discards and discard mortality.

We also creatively use slot limits, size limits, season limits. But the thing is we can move quickly. We are nimble, we can adjust, and we can manage the fishery very much in tune with what it will provide to be able to optimize fishing opportunity and access.

Dr. HICE. Do any of these alternative management measures—do any of them give a blank check to recreational fishermen, as it relates to the number of fish they can catch?

Mr. WILEY. No, sir. Absolutely not.

Dr. HICE. OK. Now, the quotas, explain to me how the quotas are divvied out. Who has them? Who gives them away? How does that process work?

Mr. WILEY. The quotas with regard to, like, the red snapper fishery?

Dr. HICE. Right, mm-hmm.

Mr. WILEY. Yes, sir. That is through the Council process, and there is an allocation process based on analysis of historic landings and such. So, it is partitioned out or allocated to the commercial sector and then, now, through the Council, are further allocated to the charter-for-hire sector and then the private boat recreational sector.

Dr. HICE. OK. So, the charter-for-hire or whatever, who is giving it to those individuals? In other words, are the commercial fishermen—who gets them and then actually divvies them out?

Mr. WILEY. Well, it is done through NOAA fisheries. I mean it is actually, the actions are taken through NOAA fisheries' actions, at the recommendation of the Councils.

Dr. HICE. I guess what I am getting to, from my understanding, are there fisheries, there used to be professional fishermen, whatever the case may be, you have all these quotas and they will sell a certain part to charter fishermen, or whatever.

Mr. WILEY. Well, those are designed, given the fishery. But in red snapper, for example, the commercial piece, those fishermen were allocated a share of the fishery, and then that fisherman that

was allocated that share can then sub-lease or sell their interest in those shares, or access to those shares——

Dr. HICE. And that is a common practice?

Mr. WILEY. I believe it is a fairly common practice. Yes, sir.

Dr. HICE. OK. So, my understanding is many of those people are now out of the fishing business, themselves. They make money by selling certain quotas to other individuals.

Mr. WILEY. I have read about that, but I don't have personal knowledge of any individual that—whether they are still in or out of the business. But I do know that they outsource or lease out access to their shares.

Dr. HICE. Is that something that would be worth monitoring, so that we know who is doing that? Because there is, obviously, an issue there. There is a problem there. If a person is not even fishing, all they are doing is becoming a broker for a certain quota, that is not the way the system was designed, was it?

Mr. WILEY. Well, I don't think that is the way most people want to see the system work, many people. But I do think it is something worth monitoring and watching, because I know it has created a lot of concern and a lot of feeling that fisheries just——

Dr. HICE. I would agree, because here is the deal—my time is about to run up—if you are a fisherman, you are the one that wants the quota. And if you are not fishing, but you are just a supplier of all this, and now you are going to sell them and you are going to make, potentially, millions of dollars selling quotas, and you are not even fishing, yourself, you have become a broker. That is not the way this system was designed. And that is an enormous weakness and a flaw.

Mr. WILEY. Yes, sir.

Dr. HICE. OK. I would want any clarification on that. Thank you very much.

Mr. LAMBORN. OK, I will now recognize myself for 5 minutes.

Mr. Kaelin, a couple questions for you. Your testimony mentions multiple times this notion of best-available science, and how it is required under law to be used to justify Federal fishery management decisions. Is the Federal Government using the best-available science today in all of their management decisions?

Mr. KAELIN. Thank you, Mr. Chairman. In all of the management decisions? That could be arguable. But I think, to the extent the data exists, the government does do a pretty good job of using the best-available science. And I think our position is that we can improve on that science dramatically by things like using industry-based platforms to do auxiliary surveys, which Congressman Young's bill refers to.

I think it is a matter of nuance. I think additional flexibility around many of the elements in the bill will help create better scientific information and allow for better decision making.

I do think the processes work. When I started dragging in 1972, there were no rules. We operated against the foreign fleets. And we have made a tremendous amount of progress. So, please don't think that our comments in support of changes and targeted reform are contrary to the purposes of the Act. We strongly support sustainable fisheries, hard caps, and good enforcement. Our point is science can be improved dramatically.

And I think if we work with the commercial and the recreational fishermen to develop the science that is used in management, we will also get more buy-in for the outcomes of the management process.

I think the science center in New England is doing a particularly good job, honestly, in trying to move us ahead and be flexible within the constraints of the law.

Mr. LAMBORN. OK. What about scientific uncertainty? Does that factor in here?

Mr. KAELIN. Scientific uncertainty is killing us. It really is. I wish I took statistics when I was in school, I never did, but the error bars are like this. And all the decisions are being made down at the lower part of the error bars, Mr. Chairman.

Mr. LAMBORN. OK.

Mr. KAELIN. There is so much room for improvement there. And things like stretching out an ACL over a 3-year period, the National Standard One guidelines allow a softening of the blow of a cut-to-go to be used over 3 years. I think you are codifying some of that in the bill. These are the kinds of things, I think, that will give us more flexibility.

We don't want to throw the bill away. We are not about destroying the Magnuson Act, but there absolutely are a number of things that could be done to give the SSCs and the Councils more flexibility in making the decision.

And the scientific uncertainty is absolutely killing us.

Mr. LAMBORN. OK, thank you. That indicates that we need to be passing this legislation. At least that is what I read into all this.

Now, Mr. Wiley, you and Mr. Kaelin indicated in your testimony that the 2006 reauthorization of the MSA may have created more problems than solutions for Federal fisheries managers. Can you elaborate on that, please?

Mr. WILEY. Well, the main thing that changed there were the annual catch limits, really restrictive annual catch limits that were applied wholesale over all the recreational programs. It works well on the commercial side, but on the recreational it just, again, is not fitting well. And the tools we have to manage to annual catch limits are not working. We are living proof of that in Florida.

Mr. LAMBORN. Does H.R. 200 help the situation?

Mr. WILEY. It sure does. We see a lot of things in H.R. 200 that would be very helpful.

Mr. LAMBORN. And last, Mr. Wiley, changing the subject, domestic shark fisheries are sustainably managed by Federal fishery managers. The United States ranks eighth in the world for shark exports, and Florida ranks second in the United States for shark landings. And there has been legislation, H.R. 1456, that would ban the sale of shark fins in the United States.

Does the Florida Fish and Wildlife Commission and the state of Florida support such legislation? Why or why not?

Mr. WILEY. My agency, the Florida Fish and Wildlife Conservation Commission, does not support that legislation, because we believe we have sufficient laws in place that provide for sustainable shark fishing. This law would hinder legitimate, sustainable shark fishing in the state, and we already have laws in Federal and state waters that prohibit landing sharks that have been finned, prohibit

shark finning. You have to land the sharks whole. And we feel like the laws are very much sufficient for that.

Mr. LAMBORN. OK, thank you. And thank you all for being here once again. I now recognize the Vice Chairman, Mr. Webster of Florida.

Mr. WEBSTER. Thank you, Mr. Chair. Florida is known as the fishing capital of the world. And, Mr. Wiley, I would credit you and your agency for doing a fantastic job in promoting the state's fisheries resources and also doing a great job of managing. We really appreciate it.

The state is not subject to Magnuson-Stevens Act, so you still do a fantastic job. You talked a little bit about it. Can you describe, kind of in layman's terms, how you are able to, without using standard procedure like annual catch limits, and so forth, how you are still able to keep healthy fisheries resources, and not necessarily do that? How do you do it?

Mr. WILEY. Well, it would take a while to give you all the background. I first want to say thank you for your kind words, but also your leadership in Florida at the state level has always been helpful and supportive. So, thank you. You have been a part of our story.

One of the fundamental things we do, and I mentioned it earlier, is we work closely with the fishermen in the recreational and the commercial community. We have strong relationships and strong bonds. We can be very transparent, we are very transparent, and we listen. And we can move quickly and be nimble to adjust.

For example, just a few weeks ago we had a charter fisherman coming in and saying we are seeing trouble with the cobia fishery. That is a federally managed fishery, but cobia is important to our charter fishery. And they were seeing their catches go down. Well, there was no indication at the Federal level that was a problem.

So, we are sitting down and working with them and having workshops to contemplate whether we need to implement some restrictions in state waters. That is just an example of how we listen, we have relationships, we work hard to reach out and have a good trust with our stakeholders, and work on problems on a daily basis.

Mr. WEBSTER. You mentioned a little bit about using smartphones and using that with the recreational anglers to do your survey on what is happening in your waters and what is being caught, and so forth. Can you say a little bit more about that? How does that work?

Mr. WILEY. Yes, sir. I love it, we call it citizen science, and it is very valid. You have to design a program that allows our anglers to input the information.

And now, with technology, iPhones and things like that, you can actually use an application, download it, and you can record and it will submit then right into our scientific data, and can be used in our modeling, where we are starting to see it used in other states. There is an iSnapper and an iSnook, and there are all these ways that we can get good information from anglers that is very valid and very helpful with regard to assessing stocks, and looking at those measures. So, we appreciate that.

We also, just within the last 2 years, implemented a Gulf Reef fish survey, which is our own survey, particularly to get the

snapper and grouper. It really narrows down the universe of people. We know who is fishing, and we know who to sample and who to send surveys to. So, we are really working hard to refine our tools all the time, to try to improve the data, improve the science, and make it more helpful.

Mr. WEBSTER. Once they sort of chime in the first time, then you have their information and you communicate with them after that?

Mr. WILEY. Yes, sir. They just sign up for the app, and then they are plugged in.

Mr. WEBSTER. Is it your app?

Mr. WILEY. Yes, sir. Well, no. Actually, it was designed by an individual entrepreneur and some of the fishing community worked together to design it. We just looked at it, essentially certified it, and said this will work, and we figured out ways to allow it to plug right in to help our data.

Mr. WEBSTER. Thanks for being here.

Mr. WILEY. Thank you.

Mr. WEBSTER. I yield back.

Mr. LAMBORN. Mr. Young of Alaska.

Mr. YOUNG. Thank you, Mr. Chairman. May I make this clear? You all like the flexibility in H.R. 200, right? Raise your hands.

All right, I figured that out right quick, because that was the bone of contention, that flexibility hurt the Act itself. And I personally watched where, because of the Federal management, some of the science was not—by the way, the worst thing that has ever happened to this Congress is best science available. The best science available may not be any science at all, and that is what hurts us.

I would like to see NOAA—and I am trying to figure out how we get more money into the private or industry—the scientific community could verify what is being told. The deal in the Gulf now, and the red snapper, is really NOAA. I think it has done a fair job, but the people running it won't convey that science to the limitation or the catch cap on red snapper.

And, by the way, I will not say anything other than Mr. Scott and Mr. Graves are really the ones that led the charge against that 33 days or 39 days for additional recreational fishermen. And I give them credit for it.

I want to solve the problem of the red snapper, if I can, in this legislation, without necessarily picking out on the red snapper.

The Chairman brought up the shark fin program, and I think the idea of throwing away edible product is a criminal act. If you are going to catch a fish, use everything but the squeal, that is the appropriate way to do it. And that is the way pig farmers make a living, by the way, and we are doing a good job on our salmon, now. We are using everything on that fish.

What if we were to extend the state land mass mileage out to 12 miles, as it was before the Magnuson-Stevens Act? A lot of people don't remember that. It used to be 12 miles. And to get to 200 miles managed federally, the states gave up 9 miles. What if we put it out? Would that help the species at all?

Anybody want to talk about that? What would it do? Anybody have any idea?

Mr. WILEY. If I may, Mr. Chairman?



Mr. YOUNG. Yes.

Mr. WILEY. I think we should talk about looking at that as a creative tool. I am not sure 13 miles would be enough to make a big difference, but that concept sure has merit.

Mr. YOUNG. Well, mainly for fish management, because someone is going to say, well, you know, there are resources out there—fish, and we don't want to give the ownership—just management.

What about depth? I think the 30 or 35 fathoms, the state could control out that far. What would that do?

Mr. KAELEN. Mr. Chairman—or Mr. Young, excuse me.

Mr. YOUNG. I am a Chairman. Once a Chairman, you are always a Chairman.

Mr. KAELEN. Always a Chairman.

[Laughter.]

Mr. YOUNG. And, by the way, there is another side. Once an SOB, always an SOB.

[Laughter.]

Mr. KAELEN. Well——

Mr. YOUNG. All right, go ahead.

Mr. KAELEN. Yes, thank you. I am not sure that we are in favor of extended state jurisdiction on the Atlantic Coast. We have a very wide Continental Shelf.

But my experience with the Commission and the state-by-state management is it has been a tremendous impediment to effective coastwide management of resources that do not respect the state jurisdictions. So, I am not sure we are ready to see state extra territorial extensions in our region. I think we are better off with coastwide catches and landing restrictions that are maybe agreed on universally, but we would have to think a little bit more about the extension of state——

Mr. YOUNG. Again, we are looking for trying to solve this problem about sustainable yield. That was the whole concept of the Magnuson-Stevens Act. And, by the way, again, it started in the House. They are just Senators.

Mr. MARTIN, you brought up a couple things that I did not even think about. The interference of other agencies on the maintenance and management of fisheries, would it be better to have all the fisheries under the Magnuson-Stevens Act, then the other agencies could not get involved in it?

Mr. MARTIN. Well, certainly, I think that streamlining the process by having MSA be the focal Act for fisheries management would be a preferred direction, as far as our Association is concerned.

Mr. YOUNG. One thing, I agree on the monuments. I have never understood why they put—fishing does not hurt the monuments, Mr. Chairman. We might want to look at rewriting only monuments in the ocean can prohibit mineral exploration, that type of thing, but allow fishing, because fishing does not have anything to do with it. I just want to think about that. Thank you, Mr. Chairman, I appreciate it.

Mr. LAMBORN. Thank you. I am glad you got that title right.

OK, now I am going to ask unanimous consent because Mr. Huffman does not have a colleague to ask time to yield to him for,

so unanimous consent for 2 minutes for Mr. Huffman to finish his line of questioning.

No, objection? So ordered.

Mr. HUFFMAN. I appreciate that, Mr. Chairman. It is lonely over here on this side of the aisle. So, I was just asking Mr. Witek what he thought about this decision by the Secretary to extend the recreational fishing periods. We talked about the Gulf red snapper, but there was also a similar action taken with respect to summer flounder.

I would like to ask your thoughts, sir, about the longer-term consequences of those decisions.

Mr. WITEK. If I could, I would address summer flounder first, because that is my local fishery. And basically, I believe that the decision has done very serious harm to the inter-jurisdictional cooperative management of inshore fisheries on the East Coast.

For many years, the Atlantic States Marine Fisheries Commission could enforce its fishery management plans by the threat of going to the Commerce Department and having a moratorium imposed on non-compliant states. It operated on a carrot-and-stick principle, the carrot being restored fisheries, the stick being the moratorium.

The Secretary's decision has taken the stick away. And right now, last night, I attended a New York State Marine Resources Advisory Council meeting, and the Council was already asking the DEC, "Can we go out of compliance with two different management plans?" Because the threat is no longer there, they are no longer afraid of the moratorium.

Mr. HUFFMAN. So, now everyone is going to want a special pass from the Secretary?

Mr. WITEK. That is correct. I have heard of other states already talking about looking for a pass in the striped bass fishery in the Chesapeake Bay, for example.

If I could answer quickly on the red snapper, I think that decision could very well be the death knell to rational management of red snapper in the Gulf Coast. Right now the overfishing will be serious enough, if predictions I have seen work out, as much as 7 million pounds of red snapper overfishing. That is going to be deducted from next year's Federal fisheries quota, which will basically mean there will be no Federal fishery season. Yet the state fisheries will remain open, so they will overfish again against the Federal quota, creating a death spiral that I see no way to get out of.

Now, the Gulf Council may have a way out of it, because they are talking about changing the definition of an overfished stock. Now it is a fairly high standard. I don't recall the exact percentage. It may be something like 75 percent of spawning stock biomass, but they are talking about dropping it to 50 percent. And by shifting in the goalposts, suddenly the stock would not be overfished any more, and accountability measures would not be—

Mr. HUFFMAN. Mr. Chairman, I am really grateful for the extra time. I am out of time, but I wonder if I might quickly ask unanimous consent to enter into the record a letter from Ranking Member Grijalva to the Secretary asking for a justification on this red snapper decision.

Also, a letter from the Atlantic Council objecting to the summer flounder action.

And then six letters from ecotourism business groups across the country requesting strong and successful conservation of our marine fisheries under the Magnuson Act.

Mr. LAMBORN. Without objection, so ordered.

Mr. HUFFMAN. Thank you.

Mr. LAMBORN. Mr. LaMalfa of California.

Mr. LAMALFA. Thank you, Mr. Chairman. Being from the West Coast, we deal with a lot of issues inland, as well as on the coast. The lack of management of the salmon stocks, the consequences have been enforced as justifying reductions in water supply to California's farms and cities. The environmental groups, in assessing populations, like to conflate the healthy populations of salmon with those that are endangered.

So, the low river flows, that up until last year were caused by historic droughts, blame agriculture. All these efforts by the environmental groups have contributed to loss of many, many Ag. jobs and billions of dollars in revenue to one of the most fertile places in the world, in California.

So, what you get is that the environmental groups will say that populations of salmon are virtually non-existent, but the reality is that the Fish and Game Commission, by their own numbers that they released just a couple years ago—49 million salmon and steelhead, largely raised in taxpayer-funded hatcheries, and funded by fishing licenses, fees, et cetera, and water bills.

What I am getting at here is that I think we can have better management that makes less of a strain on our water supply in California, arbitrarily, and the Pacific Fishery Management Council can play a big role in communicating the various cause of impacts to commercial salmon. We have seen time and again it is not just agriculture and cities and people use, but historic drought, as well as impact of predators, such as the striped bass in the Sacramento River, where NMFS, Marine Fisheries, has found in 2009—I hope we have more recent stats—that 90 percent of Sacramento River salmon died before they even left the river.

Hopefully, we can learn more today about how Fishery Management Councils can help inform all of us, provide a reliable basis for decisions based on facts, not on rhetoric. So, that leads to my question for Mr. Kaelin.

The fishery situation in California is a lot different than from the Atlantic, obviously, although many problems go beyond the West Coast. As pointed out earlier, you believe that fishery management processes that are adaptive would enable fish companies and others to learn from the unintended consequences of previous decisions.

Would you be able to elaborate a little bit on how that adaptive process could achieve better results that are better for everybody around?

Mr. KAE LIN. Thank you for the question, Mr. LaMalfa. By the way, our company operates two squid plants in California under the name Suncoast Calamari, so we actually operate on both coasts.

Adaptive management is a great concept. It is not one that is used very widely, frankly. I think the Councils are guilty of making

the decision of not going back and taking a look at what the effects of those decisions have been. And that is something—I think I did mention this in my testimony—this is where we are, in terms of whether or not the reauthorization of the Magnuson Act should occur, frankly. And that is to take a look at the data that shows us whether there have been pluses and minuses, and then move ahead with some targeted reform.

Also, the cumulative effects of management measures are very rarely considered in this process. I think it is an area we really have to do a lot of work in. Otherwise, we will not learn from the past. So, adaptive management is under-utilized.

Mr. LAMALFA. Why do you think that is? Is there some kind of barrier, or taboo about that, or it just has not been—

Mr. KAELEN. I think it is a lack of discipline, frankly, to have this be part of the Councils' regular review of what they have done. Maybe it is because there are so many issues in front of the Councils, and limited staff, limited days of the year, and we tend to continue to forge ahead in new areas, and never go back and take a look at what the effects have been.

Mr. LAMALFA. Let me real quickly—would more input from local data or state, instead of just Federal—state and local data, would that be more useful? Do you think we can incorporate more of that, and get better overall results?

Mr. KAELEN. Yes, I think so. We are utilizing that data to the extent that it exists now. It is a matter of sitting down and taking a look at what the impact has been, and having that be part of the process, regularly. It does not happen very often, so I guess it is a matter of will, and something that you could help direct the Councils to do, perhaps, in this bill.

Mr. LAMALFA. We will find a way. Thank you for that. I will yield back.

Mr. KAELEN. Thank you.

Mr. LAMBORN. Representative Beyer of Virginia.

Mr. BEYER. Mr. Chairman, thank you very much, and thank all of you for being here.

Mr. Witek, we have heard claims that recreational anglers are not getting increased access to fish as fish stocks rebuild. Only by osmosis have I learned a lot about red snapper on this Committee, for example. But we know that seasons are shrinking faster than allowable catches are growing, because ever more people are entering the fisheries, and a growing pie is being split into smaller slices.

We hear a lot about flexibility, and does the Act need more flexibility. But it seems, from emergency rules to allow overfishing to continue in the short term, to alternative management measures like harvest control rules, Councils can manage fisheries basically any way they want to, as long as they do not exceed the science-based catch limits.

Can you opine on flexibility? And give me the confidence that it is not a euphemism to allow overfishing.

Mr. WITEK. Well, it depends who uses it. Certainly, in some people's usage, it is nothing more than an asking for the flexibility to overfish, and the flexibility not to rebuild or to delay the rebuilding of overfished stocks.

But the fact is there is already lots of flexibility that already exists in Magnuson-Stevens. One of the best examples is in summer flounder, black sea bass, and scup, where the Mid-Atlantic Fisheries Council advises NMFS, and NMFS sets the recreational annual catch limit. But then the actual regulations that anglers have to comply with are set by the states, acting through the Atlantic States Marine Fisheries Commission. And they can differ in season length, size, and bag limit, so long as those regulations the states set meet the Federal annual catch limit. That is substantial flexibility.

We heard Mr. Wiley talk earlier about slot limits. There is absolutely nothing in Magnuson that prevents the use of slot limits, again, as long as the ACL is met.

Using biomass to determine—that is actually how it is determined whether a stock is overfished. It is by the biomass. Does it meet the target biomass? Has it dropped below the threshold biomass? All of those things exist in Magnuson today and could be used in Magnuson today.

Mr. BEYER. Good. Thank you very much. The Budget Committee is meeting right now down the hall. And in the Administration's budget, NOAA Fisheries was proposed to be cut by 5 percent. And in the recently approved House Appropriations bill, the agency has recommended funding slightly above it.

But I am impressed. Again, one of my experiences on this Committee is that we often hear about the data on fisheries being old. I went with Chairman Bishop to Homestead, Florida to have a public hearing there. And they kept saying, "Well, these counts are 10 years old."

So, the question for all of our witnesses, maybe Mr. Martin. Do you support more Federal funding for fisheries science?

Mr. MARTIN. Yes, I think it is very important that the science be validated as frequently as possible to be able to make sound management decisions.

Mr. BEYER. Mr. Kaelin?

Mr. KAELIN. Absolutely, Mr. Beyer. And I mentioned earlier, I think collaborative research with the industries, both recreational and commercial, is a very important piece of additional funding. I think we need to continue to emphasize the value of the cooperative research programs in the region that we can benefit from, too.

Mr. BEYER. Mr. Wiley, an opportunity to weigh in?

Mr. WILEY. Yes, sir. I do support additional funding, but with the caveat that we need to look closely at how priorities are set and where the funds are spent, because sometimes they do not sync up with where we feel like the greatest need is.

Mr. BEYER. That is fair.

Mr. Witek, you said in your testimony that you have seen a whole array of different fisheries' management styles from different government entities over your career. What can you tell us about whether annual catch limits, as an idea, as a philosophy, is the best way to effectively manage marine fisheries?

Mr. WITEK. On the East Coast, or at least in the Mid-Atlantic and New England, it is the only thing that has ever worked.

In New England, they refused to put annual catch limits in until compelled to in the 2006 reauthorization. We lost stock such as

winter flounder. We lost Gulf of Maine cod. We lost Georges Bank cod, we lost a number of other species. Yes, there are still some there, but when you are talking about a fish that is at 3 percent or 5 percent of target level, as some of the cod are, that is a lost stock.

Atlantic States Marine Fisheries Commission does not, in most species, use annual catch limits. They have not recovered a single stock in the last 20 years. And striped bass, which is their flagship and the one stock they recovered in 1995, was overfished in 6 years out of 10 before the last stock assessment, and is now slightly above the overfished threshold.

Mr. BEYER. Thank you very much, Mr. Chairman.

Mr. LAMBORN. Representative Graves of Louisiana.

Mr. GRAVES. Thank you, Mr. Chairman. I wanted to thank you all for being here today.

Mr. Wiley, thank you. I was reading through the testimony of Mr. Witek, and he expressed his frustration, as he did in his oral testimony, about the lack of action by the Commission there to properly manage flounder up in the Northeast.

I think I share their concerns with the Council's decisions and lack of action and decisions that do not represent the best interests of the public, in many cases. I would like to ask you—there was some sentiment that was expressed that states perhaps don't know how to properly manage fisheries. Could you tell me some experiences about where you have improperly managed, or your state has improperly managed, fisheries and allowed overfishing to occur?

Mr. WILEY. I can think of no recent history where that has occurred.

Mr. GRAVES. I am from the state of Louisiana. Can you think of an instance where that has occurred in Louisiana?

Mr. WILEY. No, sir.

Mr. GRAVES. What happened whenever you had ice issues with the snook? Can you tell me about that?

Mr. WILEY. Well, yes. Believe it or not, we had a freeze a number of years ago in south Florida, and that is not normal.

Mr. GRAVES. Is that 60 degrees? What is that?

[Laughter.]

Mr. WILEY. It is, yes. It was real, and it really hurt our snook fishery. We did initial emergency assessments and realized that we needed to take emergency action to protect that stock, so that we had sufficient stock to rebuild as quickly as possible. We immediately closed the season and kept it closed until our science said it was ready to open.

Mr. GRAVES. Large mouth bass in Louisiana after Hurricane Andrew was another example of where the state of Louisiana, as a result of the impacts from that hurricane, shut down large mouth bass fishing in the Atchafalaya Basin area. So, a similar situation to what you are facing.

There was a little bit of talk about the red snapper agreement that was reached among the Gulf states and the Department of Commerce for this year, and it was suggested that that is going to result in overfishing. If you see that your catch limits are exceeding what you believe is a sustainable harvest—and let's keep in mind

that this is a trade of state days for Federal days—what would you do?

Mr. WILEY. We would move to shorten our season, or take whatever measures were necessary to address it.

And to that, it is really premature to speculate that we are going to go any degree over the quota at this point. We have weather systems coming through. The fishing is very dynamic, and so it is really too early to speculate what may happen.

Plus, we are getting a new stock assessment this year, and our scientists are telling us that the stock has rebuilt and rebounded much more quickly than we ever thought. So, we are expecting to get some good news that should reset this debate.

Mr. GRAVES. Mr. Wiley, just so you know, I sent a letter to our fisheries commission asking them to very precisely manage the harvest that is resulting from this swap of seasons, and asked them to shut the fisheries down early in the state of Louisiana if it appears that we are crossing over sustainable harvest thresholds there, as well.

Mr. Witek, I have heard that you are a proponent of what some have called the catch share experience.

Mr. WITEK. Yes, I am.

Mr. GRAVES. As I understand, the catch share experience is a situation where a commercial fisher takes someone out and that person pays to go out to catch fish. We can talk red snapper for fun.

I am struggling with understanding how that is an appropriate allocation of resources. It seems, if there is additional demand for recreational fishing, and it is being handled by commercial fishers, it seems like that is more of a charter activity or recreational activity. It seems like that is almost poaching, which I assume you would oppose.

Mr. WITEK. Well, yes, it feels strange when you first start to think about it. But when you look at the process, what we have is—

Mr. GRAVES. It is kind of like drinking, though? That feeling goes away after some time?

Mr. WITEK. I was a skeptic, too. I will be the first one to admit it. But when you realize there is 51 percent of the stock which is off-limits to recreational fishermen, period. That is the commercial allocation. They get 51 percent of the total ACL.

Now you have a chance to make some of that commercial allocation available to recreational anglers who are willing to go out, not pay for the trip, but pay for fish that they caught on a per-pound basis, as much as they would like to buy. The price comes out to about the same as if you chartered.

Mr. GRAVES. Why would you not just give it to the recreational folks, or give it to charter folks, instead? I mean that is a charter—a recreational—I have 8 seconds left, and I want to ask you one other question.

You wrote a blog about a bill that we actually have not introduced and are still negotiating with various folks. Can you tell me where you got a copy of that draft bill?

Mr. WITEK. Actually, I would prefer not to answer that question.

Mr. GRAVES. OK, thank you

Mr. LAMBORN. Representative Barragán of California.

Ms. BARRAGÁN. Thank you, Mr. Chairman.

As a Representative for California's 44th Congressional District, I am proud to say that my home state is leading the way to address climate change. We Californians know how vital our marine resources are to the many people, businesses, and communities that depend upon them, and we are well aware of the threat that climate change poses, such as ocean acidification and sea level rise.

There has been abundant scientific evidence to show that climate change will impact these marine resources. Unfortunately, not all of my colleagues on the Committee agree. In fact, in 2015, the NOAA, or NOAA Fisheries Service, released a strategy to address the impacts of climate change on fisheries. It was described by some Republicans as a radical climate change strategy.

Addressing climate change is anything but radical, as marine and coastal fisheries support over \$20 billion in economic activity, and about 130,000 jobs in California each year.

So, I have a question for each of the panelists today for your expert opinion. It is a yes-or-no answer. Do you think that climate change should be considered in fisheries management?

Mr. WITEK. Yes, I do.

Ms. BARRAGÁN. Go ahead.

Mr. KAELIN. Yes and no.

Ms. BARRAGÁN. Yes and no?

Mr. KAELIN. Yes. It depends on which form that consideration takes. I could go on, but—

Ms. BARRAGÁN. OK.

Mr. WILEY. I believe the Magnuson-Stevens Act is well positioned to integrate concerns about climate change, if that is determined to be the Federal policy.

Ms. BARRAGÁN. OK. Have I heard from everybody? Mr. Martin?

Mr. MARTIN. I would agree that, if it is done through MSA, where it is part of the evaluation of the fishery, then that would be an appropriate approach.

Ms. BARRAGÁN. So, only through the bill you believe that you should look at climate change? Is that right? Is that a yes, or is that what I am hearing?

Mr. WILEY. That is not what I said. I believe that would be the most appropriate avenue.

Ms. BARRAGÁN. OK.

Mr. KAELIN. If I could clarify my remarks for a moment, ma'am.

Ms. BARRAGÁN. OK.

Mr. KAELIN. There are winners and losers, and it is not all bad. We could go into some detail. I hope I could follow up with you and your staff about that.

Ms. BARRAGÁN. OK, sounds good. I want to move on to something else.

Earlier this year, the Committee held a hearing on the topic of marine monuments and national marine sanctuaries. During that hearing, Dr. John Bruno, a marine scientist and professor at the University of North Carolina, described the importance of marine-protected areas on fisheries. He explained that marine services increase fisheries' productivity and can benefit the fishing industry, contrary to many claims. My colleagues also submitted for the record a large body of scientific evidence supporting this.



In California, we have several important national marine sanctuaries, including the Channel Islands National Marine Sanctuary off the Southern California coast.

Mr. Witek, do you think it is important to provide refuge for fish species through protected spaces, or through catch limits, to ensure that healthy fisheries have time and space to reproduce and sustain populations?

Mr. WITEK. I believe in time and area closures to protect spawning stock, such as the South Atlantic Fishery Management Council recently put in place in the Atlantic, from South Carolina down to Florida.

I believe in gear-restricted areas to protect important habitat, bottom habitat. For example, you don't put bottom-tending gear in areas where there are fragile corals.

I believe that there are situations where an area should be closed because there is a badly overfished stock—say a deepwater grouper—and there is no way to successfully release the fish, if caught.

I do not believe in broad marine-protected areas that close areas of ocean to all access, to all fishing, including for highly migratory species that travel high in the water column and are totally unaffected by the closure and actually will transit it in a matter of hours. Because there I don't think it provides any biological benefit.

Ms. BARRAGÁN. OK. So, would it be accurate to say that—do you believe that there is more to ocean conservation than fisheries management under Magnuson?

Mr. WITEK. Than pure fisheries management? Yes, I do.

Ms. BARRAGÁN. Thank you. I yield back.

Mr. LAMBORN. Thank you. And last, but not least, Representative Scott of Georgia.

Mr. SCOTT. Thank you, Mr. Chairman. I appreciate the indulgence in allowing me to participate in this.

I would like to bring up one of the things that I hope we can talk further about as we talk about the money aspect of this. And make no mistake about it, when it comes to the red snapper, a lot of it is about money.

When we get the increased allocation, there will be an increased allocation that goes to the commercial sector, and there will be an increased allocation that we expect that, obviously, would go to the recreational sector. The thing I have never understood is why the commercial sector does not have to bid on it.

If it was oil, if it was gas, if it was timber, they would have to bid on the increased allocation. But instead, the way it has been handled, they get it for free. And then, if I want to take my kid fishing—I was a little surprised that you supported this catch share experience—but I go down to the local fish market, and I pay about \$50 a fish to the local fish market, and then I go out back and, through a handshake deal between him and a charter boat captain, you do a bare boat charter. That is the way the catch share experience works.

I guess I am not aware of any other scenario under which a commercial entity receives something for free that was a public asset, prior to the allocation of it, and is then allowed to commercially profit from it.

I am not saying we should go after what is already allocated, although I think there are some questions about whether or not it was done legally, to create as much private wealth as has been created with a public asset. But any increased allocation, that should be auctioned off from the commercial sector. I mean it is clearly going to generate profit for somebody. And then we can put that into habitat restoration, additional science, and other things.

As we go forward, I want you to know I do hope that we reauthorize the Magnuson Act. And one of the things I would ask for support in is that we get strict conflict of interest language in it on who can serve on the Councils. Because we have a very serious problem in the Southeastern Council where too much of the input and too many of the decisions are being made by people who have the potential to profit from the decisions.

So, there has to be—I am for the flexibility, but I am also for the integrity in the measures.

I want to ask you, Mr. Wiley. I can't fish for amberjack in the Gulf of Mexico this year. You are one of the few states that—in fact, you are the only state, I suppose, that is on two oceans, the Atlantic and the Gulf of Mexico. But I can fish for amberjack in the Atlantic and I can keep them, but I can't fish for them in the Gulf of Mexico. Can you tell me if that was a science-based decision?

Mr. WILEY. Well, both those decisions are handled independently by two different Councils. And there was science supporting each of those decisions as they worked through the Council. So, whether you feel like it was the right call or not, it is tough being in the state, having to work on two different Councils.

Mr. SCOTT. Absolutely. But I would tell you that Susan Shipman, who is a marine biologist in Georgia, I trusted Susan Shipman. I trust Spud, who is our current marine biologist in Georgia. I am a little taken back at the accusations that state marine biologists are not going to operate in the best interests of the biology. People who get those degrees do it because they love the ocean.

And sea bass has been talked about a lot. The size limit in the Gulf of Mexico is very different, it is 30 percent larger in the Atlantic than it is in the Gulf. I assume that is science-based.

The gentleman from Lund's, Mr. Kaelin? Would the catch limits and other things that are applied to the recreational sector work for the commercial sector?

Mr. KAELIN. I think maybe it is the other way around, the way I would look at it. I think there is a lot of accountability on our side of the ledger.

I would like to see stricter reporting.

Mr. SCOTT. So, your answer is no? What works for the recreational sector won't work for you?

Mr. KAELIN. Well, I think you would have to look at it on a case-by-case basis, honestly. But I think the Council's struggle with the lack of accountability on the recreational side, in terms of estimating mortality, more than with the commercial side—

Mr. SCOTT. Well, if what works for the recreational sector won't work for you, why do you think what works for you works for the recreational sector?

Mr. Kaelin. If we had the lack of accountability on the commercial sector that exists in the recreational sector, we would not have any fish left in some cases. We would lose——

Mr. Scott. That is because you all fish the spawning grounds and other things, though.

Mr. Kaelin. Yes, and we close areas for spawning and there are some measures that clearly benefit both sectors.

Mr. Scott. Well, I do want to agree with the time and the area closures and the gear restrictions that Mr. Witek talked about, even though I think that, certainly, the bare boat charters are a scam that needs to go away.

Mr. Kaelin. Well, those measures are in place in our region, and they are important——

Mr. Lamborn. OK, I am going to call the hearing to a close, because we are about to have votes, and we need to start heading over to the House.

That concludes our questions. I want to thank each of our witnesses for their testimony.

Members of the Subcommittee may have additional questions for witnesses, and we ask that you would respond to these in writing. Under Committee Rule 3(o), members of the Committee have to submit these questions to the Clerk within 3 business days, and the hearing record will be kept open 10 days for these responses.

If there is no further business, without objection, the Subcommittee stands adjourned.

[Whereupon, at 4:11 p.m., the Subcommittee was adjourned.]

[LIST OF DOCUMENTS SUBMITTED FOR THE RECORD RETAINED IN THE COMMITTEE'S OFFICIAL FILES]

#### **Rep. Grijalva Submissions**

- Letter addressed to Chairman Lamborn and Ranking Member Huffman from the Pew Charitable Trusts dated July 17, 2017.
- Letter addressed to the Members of the House Natural Resources Committee from the Alaska Marine Conservation Council dated July 26, 2017.
- Letter addressed to Chairman Bishop and Ranking Member Grijalva signed by chefs, restaurateurs, and seafood suppliers dated July 12, 2017.
- Letter addressed to Chairman Lamborn and Ranking Member Huffman from the Natural Resource Defense Council dated July 20, 2017.
- Letter addressed to Chairman Lamborn and Ranking Member Huffman from the Seafood Harvesters of America dated July 17, 2017.

#### **Rep. Huffman Submissions**

- Letter addressed to Chairman Bishop and Ranking Member Grijalva signed by representatives of local Texas businesses dated July 17, 2017.

- Letter addressed to Chairman Bishop and Ranking Member Grijalva signed by representatives of local Florida businesses dated July 17, 2017.
- Letter addressed to Chairman Bishop and Ranking Member Grijalva signed by representatives of local New Jersey businesses dated July 17, 2017.
- Letter addressed to Chairman Bishop and Ranking Member Grijalva signed by representatives of local Connecticut businesses dated July 17, 2017.
- Letter addressed to Chairman Bishop and Ranking Member Grijalva signed by representatives of local Washington State businesses dated July 17, 2017.
- Letter addressed to Chairman Bishop and Ranking Member Grijalva signed by representatives of local California businesses dated July 17, 2017.
- Letter addressed to Secretary Ross and Assistant Administrator for Fisheries, Chris Oliver from Ranking Member Grijalva dated June 23, 2017.
- Press release from the Atlantic States Marine Fisheries Commission dated July 14, 2017.

