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H.R. 59, "STRENGTHENING FISHING COMMUNITIES AND INCREASING FLEXIBILITY IN FISHERIES MANAGEMENT ACT"; H.R. 4690, "SUSTAINING AMERICA'S FISHERIES FOR THE FUTURE ACT OF 2021"; AND H.R. 5770, "FORAGE FISH CONSERVATION ACT OF 2021"

LEGISLATIVE HEARING

BEFORE THE

SUBCOMMITTEE ON WATER, OCEANS, AND WILDLIFE

OF THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTEENTH CONGRESS

FIRST SESSION

Tuesday, November 16, 2021

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LEGISLATIVE HEARING ON H.R. 59, TO AMEND THE MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT TO PROVIDE FLEXIBILITY FOR FISHERY MANAGERS AND STABILITY FOR FISHERMEN, AND FOR OTHER PURPOSES, "STRENGTHENING FISHING COMMUNITIES AND INCREASING FLEXIBILITY IN FISHERIES MANAGEMENT ACT"; H.R. 4690, TO REAUTHORIZE AND AMEND THE MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT, AND FOR OTHER PURPOSES, "SUSTAINING AMERICA'S FISHERIES FOR THE FUTURE ACT OF 2021"; AND H.R. 5770, TO IMPROVE THE MANAGEMENT OF FORAGE FISH, "FORAGE FISH CONSERVATION ACT OF 2021"

Tuesday, November 16, 2021
U.S. House of Representatives
Subcommittee on Water, Oceans, and Wildlife
Committee on Natural Resources
Washington, DC

The Subcommittee met, pursuant to notice, at 2:03 p.m., in room 1324, Longworth House Office Building, and via Cisco WebEx, webconferencing platform, Hon. Jared Huffman [Chairman of the Subcommittee] presiding.

Present: Representatives Huffman, Dingell, Case, Lowenthal, Soto, Stansbury; Bentz, Carl, Young, Wittman, Graves, Radewagen, González-Colón, Fulcher, and Westerman (ex officio).

Mr. HUFFMAN. Good afternoon. The Subcommittee on Water, Oceans, and Wildlife will come to order. The Subcommittee is meeting today to hear testimony on three fisheries-related bills.

Under Committee Rule 4(f), any oral opening statements at hearings are limited to the Chairman and the Ranking Minority Member or their designees. This will allow us to hear from our witnesses sooner and help Members keep their schedule.

Therefore, I ask unanimous consent that all other Members' opening statements be made part of the record, if they are submitted to the Clerk by 5 p.m. today, or the close of the hearing, whichever comes first.

Hearing no objection, that is so ordered.

Without objection, the Chair may also declare a recess subject to the call of the Chair.

As described in our notice, statements, documents, or motions must be submitted to the electronic repository at HNRCdocs@mail.house.gov.

Additionally, please note that as with our in-person meetings, Members who are joining us remotely are responsible for their own microphones. And as with in-person meetings, they will only be muted by staff if that is necessary to avoid inadvertent background noise.

Pursuant to Committee Rule 3(l) and the latest guidance from the Attending Physician, anyone present in the hearing room today must wear a mask covering their mouth and nose, regardless of vaccination status, except when you are speaking.

It is my hope that, with everyone's cooperation, we can protect the safety of Members and staff and the families that they will return to at home. The Committee has masks available for any Members who need them.

Finally, Members or witnesses experiencing technical difficulty should inform Committee staff right away so we can help.

I will begin by recognizing myself for a brief opening statement.

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

Mr. HUFFMAN. It is nice to be here again in person with many of you. I am grateful to those who are also joining us virtually from afar.

Today, our hearing is focused on the Magnuson-Stevens Fishery Conservation and Management Act. The reauthorization of that Act is years in the making.

We have two reauthorization bills before us today, mine—and, of course, I have developed mine working closely with Congressman Ed Case—and a bill from Congressman Don Young.

Yay, Don.

We will also be examining Congresswoman Debbie Dingell's bill on forage fish conservation today.

America is truly a leader in sustainable fisheries management, but the MSA hasn't been reauthorized in over a decade. And, while it is an important bill that has stood the test of time, it needs some updates, particularly concerning the impacts of climate change.

When I first started drafting the bill that we have titled "Sustaining America's Fisheries for the Future Act"—again, in partnership with Congressman Case—I knew that we needed to change the narrative around marine fisheries. We wanted the conversation to not be about partisan politics, but to be an inclusive, transparent, and stakeholder-driven process so that we could get back to basics and focus on the needs of fishing communities.

I am a big believer that good process makes good policy, so we started with a process of hearing directly from stakeholders all over the country. And we were able to do that in person in many of our listening sessions. Then the pandemic intervened. But we pushed through and finished the rest of those sessions virtually.

After that, we released a discussion draft of our bill and actively sought comments on it from stakeholders all over the country.

I think people are not only tired of the partisan divides they see with so many issues getting hijacked by partisan agendas, they are also tired of backroom deals. So, we really tried with this bill to open it up and make this one of the most transparent processes anyone has ever seen for developing a major piece of legislation.

From the listening sessions to taking comments, we have genuinely heard from stakeholders all over the board: commercial, recreational, charter, tribal, subsistence fishers, environmentalists, scientists, council members and other regulators, processors, the offshore wind industry, and more.

We learned through this process that, again, while MSA is a great law that is largely working and doesn't need to be reinvented, but it does need to be updated. And at the top of the list of updates is climate change.

Fish stocks are shifting, ecosystems are changing, and how we manage fish needs to change as well. That means incorporating more climate science, improving coordination, and more strategic planning. All of that is included in this bill.

We also need to update some provisions relating to the eight regional fishery management councils. This bill includes language that strengthens the public process and transparency, including updates for council ethics requirements, more transparent voting, and strengthening anti-lobbying provisions.

We also included two seats to the North Pacific Council for Alaskan Natives, who historically have been far too unrepresented. We created voting liaison seats for New England and Mid-Atlantic Councils, where stocks are overlapping and shifting due to climate change. This will help both regions plan for and adapt to climate change, and it will help reduce conflict between the regions.

This legislation is also very heavy on science and data. This is one of the points of consensus that we heard all over the country from just about every stakeholder. We need more data, better data to keep up with today's fishery management challenges. We need the best available science, so we have included language to expand and improve electronic technologies, cooperative research and management updates, and recreational fishing data consistency improvements.

In Title V, we address many critical conservation issues that will make the MSA even more effective as the world's best example of sustainable fisheries management.

My bill strengthens language intended to reduce bycatch, strengthens protections for essential fish habitat, and amends requirements for fishery rebuilding plan outcomes so that we don't end up in endless rebuilding plan loops. We need to ensure that rebuilding plans are working so that we can have productive and sustainable fisheries.

We also include Congresswoman Debbie Dingell's bill on forage fish conservation in our Magnuson reauthorization bill. This will help us manage a set of foundational species as a food source for other fish and animals in our marine ecosystems.

And, finally, we incorporated several other bipartisan bills in the legislation. Some go beyond the MSA, but they are critical for fishing communities and fisheries management. These include Rep.

Pingree's "Working Waterfronts Act", Rep. Webster's and my "Fishery Disasters Improvement Act", for example.

I want to thank the Dean of the House, Congressman Don Young, for his decades of leadership on marine fisheries management and for the productive conversations that we have had so far on this subject.

Of course, he played an instrumental role on the original writing of the MSA. It really should bear his name on it. And, while our two bills at this point have some differences, there is also much that we agree on.

So, I am going to continue reaching out to my friend, Congressman Young, and to his team, in hopes that we can come together on a bipartisan bill as the process moves forward.

[The prepared statement of Mr. Huffman follows:]

PREPARED STATEMENT OF THE HON. JARED HUFFMAN, CHAIR, SUBCOMMITTEE ON WATER, OCEANS AND WILDLIFE

Good afternoon. It's nice to be here again in person with many of you, and I'm grateful to those who have appeared with us virtually from afar.

Today's hearing on the Magnuson-Stevens Fishery Conservation and Management Act reauthorization is years in the making. We have two reauthorization bills before us—mine and Congressman Case's, as well as Congressman Young's. We'll also be examining Congresswoman Dingell's bill on forage fish conservation.

America is truly a leader in sustainable fisheries management, but the MSA hasn't been reauthorized in over a decade and needs important updates, particularly concerning the impacts of climate change.

When I first started drafting the Sustaining America's Fisheries for the Future Act, in partnership with Congressman Case, I knew we needed to change the narrative around fisheries. We wanted the conversation not to be about partisan politics, but to be an inclusive, transparent, and stakeholder driven process so we can get back to the basics and focus on the needs of fishing communities. That all started with hearing directly from the stakeholders, which is why, despite challenges from COVID, I held eight listening sessions around the country and virtually.

We also released a discussion draft version of the bill, which I actively sought comments on to include as much stakeholder feedback as possible.

From the listening sessions to taking comments, we have genuinely heard from stakeholders across the board—commercial, recreational, charter, tribal, and subsistence fishers, environmentalists, scientists, council members and other regulators, processors, the offshore wind industry, and more.

We learned from this process that we need to make some profound changes and updates to the MSA. At the top of the list is climate change—fish stocks are shifting, ecosystems are changing, and how we manage fish needs to change. That means incorporating more climate science, improving coordination, and more strategic planning, all of which are included in this bill. Just last week, several Committee Members were at COP 26, and we heard how important it is to act on climate change now before it is too late.

We also need to make important updates to the eight regional fishery management councils. This bill includes language that strengthens the public process and transparency, including updates for council ethics requirements, more transparent voting, and strengthening anti-lobbying policies. We also added two seats to the North Pacific council for Alaska Natives, who historically have been far underrepresented. We created voting liaison seats for the New England and Mid Atlantic councils, where stocks often overlap and shift due to climate change.

This legislation is also very heavy on science and data because to keep up with today's fishery management needs, we need to have the best available science. We included language to expand and improve electronic technologies, cooperative research and management updates, and recreational fishing data consistency improvements.

In Title V, we address many critical conservation issues that will make the MSA even more effective as the world's best example of sustainable fisheries management. My bill closes loopholes that prevent effective bycatch management, strengthens protections for essential fish habitat, and amends requirements for fishery rebuilding plan outcomes so that we don't end up in endless rebuilding plan loops.

It also includes Representative Dingell's bill on forage fish conservation, which will help us manage foundational species as a food source for other fish and animals in marine ecosystems.

We also incorporated several bipartisan bills into the legislation, including some that go beyond the MSA but are critical for fishing communities and fisheries management. These include Rep. Pingree's Working Waterfronts Act and Rep. Webster's and my Fishery Resource Disasters Improvements Act, which will speed up timelines for getting funds to fishing communities after fishery disasters are declared.

I especially want to thank the Dean of the House, Congressman Don Young, for his decades of leadership on fisheries management and for all the productive conversations we and our staff have had around MSA in the last few years. As he will tell you, he was instrumental in the original writing of the MSA, and it really should have his name attached to it. While our MSA reauthorization bills are different, there is much we agree on, and I hope we can continue to find common ground as we learn from today's hearing.

I'm thrilled that we have such a wide array of witnesses—from NMFS and the Councils to fishers across the commercial, recreational, and subsistence sectors and environmental advocates. We very much appreciate you being here today, and I'm looking forward to learning your thoughts on the Magnuson-Stevens Act.

Mr. HUFFMAN. With that, I will turn it over to Representative Young, who is standing in, I think very appropriately, as Ranking Member for this hearing for his opening remarks.

STATEMENT OF THE HON. DON YOUNG, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ALASKA

Mr. YOUNG. Thank you, Mr. Chairman. And thank you for the comments that you made about my role in this bill. I would like to say I wrote the bill with a lot of good staff help. Me and Gerry Studds, he was the Chairman, and we saw the problems we were faced with at that time of foreign fishing fleets invading our waters all the way up to 12 miles off our shores.

It was a hard-fought battle. It was hard to get everybody together. We did it. And that was sent over to the Senate side. And the Senate got a hold of it—Mr. Senator Magnuson and Senator Stevens took our bill and put their name on it and sent it back to us. So, it became the Senate bill. It should have been the Young-Studds bill. But—all that to say that.

Anyway, I will somewhat agree with a lot of what you said. We have a working relationship, but I think we can solve this problem. This bill has worked well, though. And I don't want to do something to keep it from working. I know you have a provision in here that I am supportive of and some people are not as supportive of. There are two Alaskan Natives on the council; that will be opposed by some people in the Lower 48, as you well know. But I think they play a major role and should be involved in it, and it would be in my bill if I was to pass it. But the big thing is, it doesn't do any good to get on the board or the council if they don't have the authority. And I do believe your bill passes that authority, most of it, back to the Secretary. And that is a one-person position; it is a political appointee and I don't think it is safe. I like the council system. If they have failed, show us, and let's see if we can improve on it.

[Inaudible].

Mr. YOUNG. Transparency is good, ethics is good. I agree with all of those things, but you can't have a shadow council if they don't

have some authority. And our North Pacific Council has worked well. It is not the best, but it is probably the best of all the councils, but it has done the job for the industry and—remember that original intent was sustainable yield of a species, the conservation, not preservation, the conservation of species sustainable for the communities and for the food sources for America and other countries too. I do believe that it has worked well. Can we improve on it? Yes. And I am wanting to sit down and work with you to see if we can do this.

I look forward to hearing my witnesses on what they have to present. And, when that is done, let's work a bill, like you say, bipartisanly and try to get to the situation where it needs improvement, improve it, but don't destroy what has worked well in the past, as we have, I think, a great example that can make sure that we have the original intent: sustainable yield of a species of fish, whatever they are, for the future generation of Americans.

With that, I yield back the balance.

[The prepared statement of Mr. Young follows:]

PREPARED STATEMENT OF THE HON. DON YOUNG, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ALASKA

Introduction

Good afternoon. I'd like to thank Representative Huffman for the consideration of my bill, H.R. 59, that would reauthorize Magnuson-Stevens.

I'd also like to thank Ranking Member Westerman for entrusting me to take the lead on MSA and allowing me to continue the fight to reauthorize a critical piece of legislation, of which I originally helped pass the House 45 years ago in 1976.

Lastly, I am grateful to Representative Bentz for agreeing to temporarily step aside and let me to act as Ranking Member for this subcommittee hearing.

MSA—Need for 1976 Legislation

Before 1976, foreign fishing fleets dominated the waters off Alaska's shores.

Deck lights of foreign vessels—dozens if not more—could be seen just miles off the coast of Kodiak and other coastal communities.

Recognizing the need for change, countless Alaskan fishermen came to Congress to ask for help in pushing the foreign fleets out.

Bipartisan Effort—Began in the House

Senator Ted Stevens and I knew that Alaska's and America's interests needed protection and we immediately began working to spearhead commonsense fisheries reforms through Congress.

- We made a unique push to expand our nation's Exclusive Economic Zone (EEZ) to 200 miles, while limiting state waters to 3 miles.

Reforms weren't easy, but partnerships and friendships were formed—with Representatives and Senators across state and party lines—to convince our colleagues it was the right thing to do.

- Rep. Gerry Studds (D-MA) and I led the charge in the House, and the Senate quickly followed suit.

Americanizing our Fisheries

After years of work, the foundation of our domestic fishing fleet was born from the Magnuson-Stevens Act (MSA).

Along with the creation of the 200-mile Exclusive Economic Zone that pushed foreign fleets further from our shores, MSA "Americanized" our fisheries and created wealth and certainty for our State and fishermen.

Alaska—Gold Standard of Fisheries Management

Alaska is now home to the strongest, most sustainable fisheries in the world.

- The North Pacific Fisheries Management Council, currently chaired by Simon Kinneen, is considered the gold standard.

Across the North Pacific, from Dutch Harbor to Ketchikan, our fishermen and coastal communities have thrived under the policies developed in MSA.

Alaska's seafood industry now contributes nearly 70,000 jobs to our local economies and harvests more than 60 percent of the nation's seafood. In fact, approximately one in ten Alaskans work in the seafood industry!

Reauthorizing MSA—Providing Reforms to Ensure Proper Balance

As Alaska's fisheries continue to flourish, there ultimately comes a time when our laws—even those that are working well—must be reviewed and updated.

Since MSA was last reauthorized in 2006, I am once again proud to be at the head of the charge on reauthorizing this important legislation.

H.R. 4690: Sustaining America's Fisheries for the Future Act of 2021 (Huffman)

Although I commend my colleague, Rep. Huffman, for understanding the crucial role MSA plays in the management of our nation's fisheries, I do have concerns with his bill:

- First, this bill would take power from the Councils and put it in the hands of the Secretary, which is a politically appointed position. We must keep science and expertise at the core of how we manage our fisheries.
- Second, I am concerned that increasing restrictions or burdens on our domestic fisheries will make U.S. industry less competitive and will only lead to an increase in imported seafood—much of it coming from countries that have little or no conservation laws. I fear that this will only make the world's fishery problems worse.
- Third, I am concerned about amending the act in ways that will only increase litigation. After the 1996 amendments, NOAA saw an increase in lawsuits and at one point was dealing with over 100 lawsuits. Courts and lawyers should not be managing our fisheries.
- However, I'd like to recognize a provision in Rep. Huffman's bill that would add two Alaska Native Tribal seats to the North Pacific Fishery Management Council. This is a provision that I support, and I am appreciative of Rep. Huffman for including it in his bill and working with the Alaska Federation of Natives (AFN) to do so. I plan to incorporate a similar provision in my own bill as well.

H.R. 59: Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act (Young)

My legislation, H.R. 59, would make a number of improvements to the MSA in order to ensure a proper balance between the biological needs of fish stocks and the economic needs of fishermen and coastal communities. The bill includes a number of modest but necessary reforms:

- Preserves the roles and responsibilities of the Councils by avoiding new, overly burdensome processes and science requirements on fishery managers;
- Adds flexibility for fishery managers in "data poor" regions of the country for rebuilding depleted fisheries and setting annual catch levels;
- Seek to further improve the science and data on which Councils base their management;
- Increase transparency in science and management by allowing the public to play a greater role in the development of science and Fishery Management Plans;
- Gives stakeholders a voice in the management process and requires the Secretary of Commerce to develop a plan for implementing cooperative research with fishermen and outside groups;
- Includes a requirement for NOAA to provide better accountability on how fees are collected and used;
- Provides clarification on the role of the Magnuson-Stevens Act when interacting with other federal statutes like the Marine Sanctuaries Act and Antiquities Act; and
- Avoids creating the potential for litigation that could negatively impact what is widely considered to be an effective management system.

This legislation is similar to efforts I led during the 115th Congress, H.R. 200, which passed the House on July 11, 2018.

Looking Forward to Getting MSA Reauthorization Done

In many ways, MSA continues to support Alaska and American fishermen and protects our fishery resource as envisioned.

- However, our laws are not written in stone and we must constantly review them, listen to our constituents, and make changes when necessary.

I look forward to once again hearing from the countless Alaskans and Americans who helped us develop these positive reforms.

Just as we did in 2006 Congress must work in a bipartisan fashion to ensure this law keeps pace with changes in our industry and that it is being implemented as intended by Congress.

Closing

I look forward to continuing to work with Rep. Huffman so we can reach a bipartisan agreement on the reauthorization of MSA.

I yield back.

Mr. HUFFMAN. All right. I thank the Ranking Member. I understand that the Ranking Member of the Full Committee, Mr. Westerman, has an opening statement as well. We will yield to him.

STATEMENT OF THE HON. BRUCE WESTERMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARKANSAS

Mr. WESTERMAN. Thank you, Mr. Chairman. Thank you for holding this hearing on reauthorizing the Magnuson-Stevens Act, which is one of the most important laws under this Committee's jurisdiction. We know it may be named after two former Senators, but anyone in the fisheries world knows that our Dean of the House, Don Young, is co-responsible for not only its creation in 1976 but for its continuation.

It is only fitting that he is the acting Subcommittee Ranking Member for this hearing. He is the true expert in this field, and we are honored to have him here captaining the boat on our side of the aisle.

The MSA law we are looking at today has been reauthorized twice, with a possibility for a third time. As Mr. Young referenced, our laws are not written in stone, and it is our duty to review them, as needed. That involves looking at what has worked and what hasn't, which is the scope of this hearing. We will hear today that this landmark fisheries law has helped create world-class opportunities for commercial and recreational anglers alike.

Jobs in our coastal areas and even land-locked communities in Arkansas—where boat construction flourishes, thanks in part to recreational fishing in saltwater—are the direct result of Federal fisheries law. And, in many cases, the seafood we enjoy on our dinner plates come from American waters managed under the law before us.

From some of the witness testimonies here today, it is evident that one of the reasons the law has been successful is that the MSA law empowered regional management that accounted for difference in fisheries, communities, dialogues, history, and the like.

The regional councils are given National Standards to adhere to, but have the ability to meet those standards using regional approaches. Mr. Young's bill continues that management style while providing for more flexibility and transparency in the law.

Mr. Young's bill also promotes science. We will hear today that researchers are making great technological advances to measure fish abundance, and that the Federal Government, at least involving red snapper in the Gulf of Mexico, has some work to do when it comes to fish counting.

On the other hand, we will hear that Mr. Huffman's reauthorization bill goes a little bit in the opposite direction. And I hope we can work together to come up with a bill that recognizes these advances in science. Instead of empowering councils, I don't think we need a bill that restricts them and gives more power to the Federal bureaucracy in Washington, DC. It could lead to regulatory chaos and litigation when it comes to changes on Federal bycatch standards. The bill also changes the process for potential impacts on essential fish habitats and gives NOAA a superpower status over other Federal agencies.

For example, the U.S. Navy has strong concerns over these provisions and is worried about military preparedness and readiness. In addition, given President Biden's current supply chain crisis, enacting provisions which inhibit dredging or port development will make this situation even worse.

In conclusion, both bills, as well as Congresswoman Dingell's bill on forage fisheries, which is included in Mr. Huffman's bill, are well-intentioned. But we need to ensure that whatever this Committee does after this hearing does not undermine what has worked for fishing communities.

I, again, commend Mr. Young for his true leadership on this effort, and I look forward to today's testimony. I yield back.

[The prepared statement of Mr. Westerman follows:]

PREPARED STATEMENT OF THE HON. BRUCE WESTERMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARKANSAS

Thank you for holding this hearing on reauthorizing the Magnuson-Stevens Act, one of the most important laws under this Committee's jurisdiction.

It may be named after two former Senators, but anyone in the fisheries world knows that our Dean of the House, Don Young, is co-responsible for not only its creation in 1976 but for its continuation. It is only fitting that he's the Acting Subcommittee Ranking Member for this hearing.

He is the true expert in this field, and we are honored to have him here captaining the boat on our side of the aisle.

The MSA law we are looking at today has been reauthorized twice, with a possibility for a third time. As Mr. Young referenced, our laws are not written in stone and it's our duty to review them as needed.

That involves looking at what has worked and what hasn't, which is the scope of this hearing. We will hear today that this landmark fisheries law has helped create world-class opportunities for commercial and recreational anglers alike. Jobs in our coastal areas and even in land-locked communities in Arkansas—where boat construction flourishes thanks, in part, to recreational fishing in saltwater—are the direct result of federal fisheries law. And, in many cases, the seafood we enjoy on our dinner plates comes from American waters managed under the law before us.

From some of the witness testimonies here today, it's evident that one of the reasons the law has been successful is that the MSA law empowered regional management that accounted for differences in fisheries, communities, dialogues, history and the like. The regional councils are given National Standards to adhere to, but have the ability to meet those Standards using regional approaches. Mr. Young's bill

continues that management style while providing for more flexibility and transparency in the law.

Mr. Young's bill also promotes science. We will hear today that researchers are making great technological advances to measure fish abundance and that the Federal Government—at least involving red snapper in the Gulf of Mexico—has some work to do when it comes to fish counting.

On the other hand, we will hear that Mr. Huffman's reauthorization bill goes in the opposite direction. Instead of empowering councils, it restricts them and gives more power to the federal bureaucracy in Silver Spring, Maryland. It could lead to regulatory chaos and litigation when it comes to changes on federal by-catch standards. The bill also changes the process for potential impacts on essential fish habitat and gives NOAA agency superpower status over other federal agencies. For example, the U.S. Navy has strong concerns over these provisions and is worried about military preparedness and readiness. In addition, given President Biden's current supply chain crisis, enacting provisions which inhibit dredging or port development will make this situation even worse.

In conclusion, both bills—as well as Congresswoman Dingell's bill on forage fisheries which is included in Mr. Huffman's bill—are well-intentioned. But we need to ensure that whatever this Committee does after this hearing does not undermine what has worked for fishing communities.

I again commend Mr. Young for his true leadership on this effort and look forward to today's testimony.

Mr. HUFFMAN. I thank the Ranking Member.

As this is a legislative hearing, our first panel is one of the Congressional Members speaking about the bill on the agenda. Congressman Young and I have already given our opening statements where we addressed our legislation.

So, we will now hear from Representative Dingell for her statement on her bill, H.R. 5770, the Forage Fish Conservation Act of 2021.

Representative Dingell, you are recognized for 5 minutes.

STATEMENT OF THE HON. DEBBIE DINGELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mrs. DINGELL. Thank you, Chairman Huffman, and to my dear friend Representative Young, who has done so much work in all of this area. I am always honored to work with him. And thank you for convening today's hearing to discuss legislation to strengthen our nation's fisheries.

I appreciate the Committee's inclusion of the Forage Fish Conservation Act, which is bipartisan legislation I am leading with my colleague, Congressman Brian Mast.

Forage fish, the smaller fish that support other recreationally and commercially important species, such as tuna, salmon, and cod, are vital for sustaining a healthy marine ecosystem. However, the numbers of many of these fish have declined dramatically in recent years and are at historic lows. For example, coast-wide landings of shad and river herring have fallen by more than 96 percent since 1950. And, additionally, human demand for these species has continued to grow.

These increased pressures, if not addressed soon, will threaten opportunities for recreational fishermen as well as the larger marine ecosystem.

To maintain healthy and abundant fisheries in the coming years, we must work to strengthen science-based mechanisms for fisheries management to build upon the success of the Magnuson-Stevens

and other proven conservation measures. And that is why the Forage Fish Conservation Act is necessary.

This legislation gives the Secretary of Commerce the authority to create a science-based definition for "forage fish" in Federal waters and ensures that scientific advice sought by fishery managers includes recommendations for forage fish, all while preserving state management of forage fish fisheries that occur in their jurisdiction.

Additionally, the legislation assesses the impact any new commercial forage fish fishery could have on existing fisheries, fishing communities, and the marine ecosystem prior to the fishery being authorized. Taken together, the provisions in the Forage Fish Conservation Act would implement a consistent fisheries conservation policy throughout the eight fisheries management councils. This will allow Americans to enjoy healthier ecosystems that support thriving coastal communities, as well as their associated economies. This legislation has broad bipartisan support as well as the backing of groups, including the American Sportfishing Association, the National Marine Manufacturers Association, the National Wildlife Federation, the Pew Charitable Trusts, and the Theodore Roosevelt Conservation Partnership.

I would also like to ask unanimous consent to enter into the record a letter signed by dozens of scientists from across the country supporting the Forage Fish Conservation Act. The need for action is clear, as is the cost of the inaction. By acting now, building upon the success of Magnuson-Stevens' proven, state-based conservation mechanisms, we will be able to address the pressing need for the benefit of fishing communities and the economy at large.

I want to thank my colleague, Brian Mast, for his leadership and his support of this legislation and look forward to continuing to work in, I hope, a very bipartisan manner to move the Forage Fish Conservation Act forward. I urge my colleagues to support this legislation, and I yield back.

[The prepared statement of Mrs. Dingell follows:]

PREPARED STATEMENT OF THE HON. DEBBIE DINGELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Thank you, Chairman Huffman and Ranking Member Bentz, for convening today's hearing to discuss legislation to strengthen our nation's fisheries.

I appreciate the Committee's inclusion of the Forage Fish Conservation Act, bipartisan legislation I am leading with my colleague, Congressman Brian Mast.

Forage fish—smaller fish that support other recreationally and commercially important species such as tuna, salmon, and cod—are vital for sustaining a healthy marine ecosystem. However, the numbers of many of these fish have declined dramatically in recent years and are at historic lows. For example, coast-wide landings of shad and river herring have fallen by more than 96 percent since 1950. Additionally, human demand for these fish species has continued to grow.

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I would also like to ask unanimous consent to enter into the record a letter signed by dozens of scientists from across the country supporting the Forage Fish Conservation Act. The need for action is clear, as is the cost of inaction. By acting now—building upon the success of Magnuson-Stevens' proven, state-based conservation mechanisms—we can address this pressing need for the benefit of fishing communities and the economy at large.

I would like to thank my colleague, Congressman Brian Mast, for his leadership and support of this legislation as well and look forward to continuing to work in a bipartisan manner to move the Forage Fish Conservation Act forward.

I urge my colleagues to support this legislation. Thank you and I yield back.

Mr. HUFFMAN. Thank you, Representative Dingell, for joining us to testify today.

We will now transition to our second panel and hear testimony from the Administration and government witnesses. I will remind non-Administration witnesses that they are encouraged to participate in the witness diversity survey that was created by the Congressional Office of Diversity and Inclusion. Witnesses may refer to their hearing invitation materials for further information on that.

Under our Committee Rules, we ask witnesses to limit oral statements to 5 minutes. Of course, your entire statement will appear in the hearing record. When you begin speaking, the timer begins counting down. It turns orange when you have 1 minute left. And I recommend that Members and witnesses joining us remotely use the grid view in WebEx so that you could lock the timer on your screen. When your testimony is complete, please do remember to mute yourself to avoid inadvertent background noise. And I will allow all the witnesses to testify before we bring it back to Members for questions.

Our first witness is Ms. Janet Coit, Assistant Administrator of the National Marine Fisheries Service, Acting Assistant Secretary of Commerce for Oceans and Atmosphere, and Deputy NOAA Administrator.

After that, we will hear from Mr. Marc Gorelnik, Chair of Council Coordination Committee, and Chair of Pacific Fisheries Management Council.

The Chair now recognizes Ms. Coit for 5 minutes.

Welcome.

STATEMENT OF JANET COIT, ASSISTANT ADMINISTRATOR, NATIONAL MARINE FISHERIES SERVICE, WASHINGTON, DC

Ms. COIT. Chairman Huffman, Ranking Members Young and Bentz, and members of the Subcommittee, thank you for the opportunity to testify. My name is Janet Coit. I am the Assistant Administrator for Fisheries at NOAA. The Magnuson-Stevens

Fishery Conservation and Management Act is the legal foundation for the world's most sustainable fisheries.

Since its passage in 1976, we have made great strides in recovering fisheries and supporting the U.S. seafood and recreational fishing sectors. The progress we have made is built on strong science, collaboration with tribes, states, and the fisheries commissions, the diligent work of the regional councils, and the support of NOAA's dedicated employees.

On behalf of NOAA, I want to thank Chairman Huffman, Representative Case, and Ranking Member Young for your work on these bills. As you mentioned, they were the result of significant input and present thoughtful approaches to our fishery management challenges.

From the productive waters of our oceans to the millions of jobs associated with our commercial and recreational industries, there is a lot at stake. I hope we all agree that the dynamic science-based process under Magnuson provides the nation with a successful fisheries management construct.

Guided by the Act's unique participatory process, we have almost ended overfishing in the United States. In fact, we have rebuilt close to 50 domestic fish stocks since 2000. Still, we confront many challenges, and we are eager to work with you to identify opportunities to improve.

Climate change is impacting our coastal and ocean ecosystems, and we need to move quickly to better prepare for and respond to these changes. We appreciate the over-arching climate focus of H.R. 4690. The bill's proposed requirements to assess the vulnerability of fish stocks to climate change build upon the Administration's efforts to deliver science and information to help managers respond. Our experts are working on climate-ready strategies to help fishery managers adapt to changing conditions in the North Pacific and other geographies. We support the proposed change of the term "overfished" to "depleted," acknowledging that population size and status can be influenced by many factors in addition to fishing.

H.R. 4690 recognizes the growing need for cross council coordination as stocks shift due to climate change. We are already taking concrete steps to address those issues, such as hosting scenario planning workshops to address priority management and governance issues related to climate change.

H.R. 4690 addresses the importance of using technology to improve and expand fisheries data collection via electronic monitoring. NOAA has implemented seven electronic monitoring programs and has over 6,000 vessels using electronic logbooks. We will continue to press forward with EM and new technologies.

Habitat is the foundation of how much productive fisheries are built. The Huffman-Case bill recognizes the important role essential fish habitat plays in the success of our fisheries, and we would like to work with you to continue to strengthen these protections. The bill also recognizes the challenges of conducting stock assessments in fisheries surveyed amidst the growing demand for offshore wind.

There are several provisions in the bill that benefit fishing communities as they work to provide healthy seafood to our nation.

Both bills would replace the default 10-year rebuilding timeline, which provides a more scientifically-sound approach for rebuilding. Additionally, H.R. 4690 expands opportunities to collaborate on seafood marketing as we build back after the pandemic.

Several provisions are in line with the President's recent Executive Order on equity and environmental justice, including the addition of two seats to represent Alaskan tribes on the North Pacific Council. These provisions, together with the new "subsistence fishing" definition in both bills, promotes the participation of important and diverse fishing communities in decision making.

Ensuring employees, including council employees, are free from sexual assault and sexual harassment is a real priority for me. NOAA supports the bill's expansion of SAS policies.

In regard to fishery disasters, I am fully committed to doing a better job at turning around funding, and we support the intent of these bills to speed up that process.

Shifting gears, I would like to note some concerns about provisions in both bills. For example, the expanded scope of some of the requirements could redirect limited funding and staff away from core activities. We are also concerned about the numerous additional reports and some of the process requirements that might further strain the workload for the council and NOAA staff.

My written testimony provides further details regarding provisions that present challenges and implementation concerns. But I want to leave you with this: I am committed to working with you to promoting the economic viability of our fishing sectors and our coastal communities while ensuring that our fish stocks and marine habitats are healthy and resilient for years to come.

And we need to do more to address climate change, and I look forward to working with you to tackle that challenge and other challenges ahead. Thank you.

[The prepared statement of Ms. Coit follows:]

PREPARED STATEMENT OF JANET COIT, ASSISTANT ADMINISTRATOR FOR FISHERIES, NATIONAL MARINE FISHERIES SERVICE AND ACTING ASSISTANT SECRETARY OF COMMERCE FOR OCEANS AND ATMOSPHERE AND DEPUTY NOAA ADMINISTRATOR, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE

Chairman Huffman, Ranking Member Bentz, and members of the Subcommittee, thank you for the opportunity to testify today regarding several fisheries-related bills. My name is Janet Coit, and I am the Assistant Administrator for the National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS) and Acting Assistant Secretary for Oceans and Atmosphere and Deputy NOAA Administrator. As you know, NOAA is responsible for the stewardship of the nation's ocean resources and their habitats. We provide vital services for the nation, all backed by sound science and with continual progress toward ecosystem-based approaches to management. These services include: productive and sustainable fisheries, safe sources of seafood, recovery and conservation of protected resources, and healthy ecosystems.

Under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), U.S. fisheries are among the world's largest and most sustainable. As you know, I am only a few months into the job and still learning all the intricate details of this seminal fisheries statute. It is a privilege to join NMFS to work with the agency's incredibly skilled and dedicated employees and the regional fishery management councils (councils) to build on the many fishery management successes achieved under the Magnuson-Stevens Act. I appreciate the Subcommittee's ongoing work developing and overseeing the implementation of our nation's laws related to domestic and international fisheries and other marine

resources. I look forward to working with you on these important issues and discussing these bills with you today.

The bills I am testifying on are a result of significant input from councils, fishermen, and other stakeholders and present thoughtful approaches to our fishery management challenges. In particular, I wish to applaud Chairman Huffman and Representative Case for the inclusive, stakeholder-driven process used to develop the Sustaining America's Fisheries for the Future Act of 2021. During your eight listening sessions around the country, NMFS leadership, council members, and diverse stakeholder groups had the opportunity to share viewpoints on how the Magnuson-Stevens Act is working and areas for improvement. This substantial bill is the culmination of that comprehensive effort and the feedback you received following your release of a discussion draft in December 2020. Similarly, I applaud Representative Young for his long-standing commitment to the success of American fisheries, including his sponsorship of the original Act, previous reauthorizations, and H.R. 59.

Introduction

The most important message I hope to communicate today is that the dynamic science-based management process under the Magnuson-Stevens Act provides the nation with a very successful fisheries management construct. The unique, highly participatory management structure centered on the regional fishery management council system encourages a collaborative, "bottom up" process where fishermen, other fishery stakeholders, affected states, Tribal governments, and the Federal Government all provide input and influence decisions about how to manage U.S. fisheries under the law. In partnership with the councils, interstate fishery commissions, and our stakeholders, and guided by the Magnuson-Stevens Act, the agency has essentially ended overfishing in U.S. waters and is rebuilding domestic fish stocks. As of December 31, 2020, 92 percent of stocks for which we have assessments are not subject to overfishing and 80 percent are not overfished.[1] We have also rebuilt 47 stocks since 2000.

Sustainable fisheries increase the value of U.S. fisheries to the economy, support fishing communities, and maintain healthy marine ecosystems. In 2018, commercial and recreational fishing supported 1.7 million jobs and $238 billion in sales in fishing and across the broader economy.[2] Saltwater recreational fishing remains a key contributor to the national economy with anglers taking more than 187 million trips in 2019. In the same year, commercial fisheries landed 9.3 billion pounds of seafood providing a valuable source of local, sustainable, and healthy food.[3] Recreational and subsistence fishing provides food for many individuals, families, and communities; is an important outdoor family activity; and is a critical local and regional economic driver. Subsistence and ceremonial fishing also provides an essential food source and has deep cultural significance for indigenous peoples in the Pacific Islands and Alaska and for many tribes on the West Coast.

Under the Magnuson-Stevens Act, the U.S. has many effective tools to apply in marine fisheries management. Yet, we must continue seeking opportunities to improve our management system. NMFS supports many of the goals of the bills we are discussing today and appreciates the sponsors' and the Subcommittee's interest in advancing tools for effective fisheries management. We are committed to working with Congress to craft a reauthorization bill that ensures the Magnuson-Stevens Act continues to support sustainable fisheries and addresses the current and future management challenges facing some of our fisheries. H.R. 4690, the Sustaining America's Fisheries for the Future of 2021 and H.R. 59, the Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act, include a number of provisions aimed at addressing such challenges.

The bills we are discussing today are extensive, and this testimony does not attempt to provide a comprehensive analysis or an official Administration position on them. Rather, these comments highlight some of the key areas that we support and some areas that may be challenging to implement.

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[1] See Status of the Stocks 2016. NMFS Office of Sustainable Fisheries, available at: https://www.fisheries.noaa.gov/national/sustainable-fisheries/status-stocks-2020.

[2] See Fisheries Economics of the U.S. 2018. NMFS Office of Science & Technology, at: https://www.fisheries.noaa.gov/national/sustainable-fisheries/fisheries-economics-united-states.

[3] See Fisheries of the United States, 2019. NMFS Office of Science & Technology, available at: https://media.fisheries.noaa.gov/2021-05/FUS2019-FINAL-webready-2.3.pdf?null=.

Shared Objectives

The following provisions address some fishery management challenges, advance tools for effective fisheries management, and support key Administration priorities. We welcome the opportunity to work with the Subcommittee and the bills' sponsors to ensure that the mandates accomplish their goals without creating unintended consequences.

Climate Change and Emerging Fishery Management Challenges

We appreciate the overarching climate focus of H.R. 4690. The growing impacts of the global climate crisis and changing oceans affect nearly every aspect of NMFS's mission—from aquaculture, to conservation of protected marine resources and vital habitats, to fisheries management. Fisheries management must continue to adapt as our ocean ecosystem faces unprecedented changes due to climate change. Several provisions in H.R. 4690 will help address climate-related challenges for fisheries management. For example, Section 102 includes a requirement for the Secretary of Commerce (Secretary) to assess the vulnerability of fish stocks to climate change. This builds upon a successful program NMFS initiated to conduct vulnerability assessments of fish, protected species, habitats, and fishing communities. We have seven assessments completed or underway that provide information on which species may be most vulnerable to changing climate. In addition, we continue to advance our implementation of ecosystem-based fisheries management, such as through improved management of forage fish, incorporation of ecosystem data into the stock assessment process, and various habitat protections. Section 303 addresses the growing need for cross-council coordination as climate change modifies the geographic distribution and management needs for fish stocks. Collectively, this information helps scientists and decision-makers identify ways to reduce risks and impacts and is a key tool for councils as they manage fisheries in the face of changing climate and ocean ecosystems. The agency and councils are taking additional concrete steps to address climate change. One notable example is the Climate and Fisheries Initiative—a cross-NOAA effort to build the operational ocean modeling and decision-support system needed to reduce impacts, increase resilience, and help marine resources and resource users adapt to changing ocean conditions. This initiative is a critical component of the President's Budget for Fiscal Year 2022.

We also appreciate that H.R. 4690 addresses other emerging challenges in fisheries management. Section 402 recognizes the importance of using technology to help improve and expand data collection for fisheries management, for example, by adding electronic monitoring as an option under Fishery Management Plans in addition to human observers. Additionally, Section 409 recognizes the increasing challenges of conducting stock assessments and fisheries surveys with the growing demand for offshore wind energy, and requires the Departments of Commerce and the Interior to enter into a cooperative agreement to help mitigate potential disruption to current fisheries surveys. Provisions in Section 502 that clarify and strengthen the responsibilities of federal agencies to avoid, minimize, and mitigate adverse effects on essential fish habitat will also help ensure these important energy projects can go forward with full consideration of our vital fisheries and the ecosystems on which they depend. This is a priority for NMFS and the councils. In fact, in tandem with councils, fishing industry groups, and other partners, NMFS has implemented seven commercial fishery electronic monitoring programs and will have over 6,000 federally permitted vessels using electronic logbook systems by the end of this year, providing expanded data collection and improved catch monitoring to strengthen science-based management in U.S. fisheries.

Supporting Fishing Communities and Increasing Flexibility

Successful fisheries management supports fishing communities and healthy ecosystems while allowing flexible fishery management approaches to meet regional needs. Several provisions in H.R. 4690 and H.R. 59 will benefit fishermen and fishing communities as they work to provide a valuable source of local, sustainable, and healthy food to our nation. For example, both bills would replace the default 10-year rebuilding timeline requirement with the new default maximum of "the time the stock would be rebuilt without fishing occurring plus one mean generation." This provides a more scientifically sound approach for establishing rebuilding deadlines. Additionally, Section 303 of H.R. 59 amends the current requirement that rebuilding time periods be as short as "possible" to, as short as "practicable." These changes would provide additional flexibility but not greatly lengthen rebuilding periods beyond the current requirement or jeopardize the long-term sustainability of our managed fish stocks.

Both H.R. 4690 and H.R. 59 replace the term "overfished" with "depleted" throughout the Magnuson-Stevens Act. We support this change in terminology,

which helps clarify that population size can be influenced by many factors, such as habitat degradation, pollution, and climate change, in addition to fishing. These non-fishing factors can play a role in stock health and may affect a stock's ability to rebuild. We also support Section 204 of H.R. 4690, which directs NOAA and the United States Department of Agriculture to collaborate on seafood outreach and marketing for both wild-caught and aquacultured species. This collaboration will benefit fishermen and fishing communities and will build on NMFS's efforts to promote U.S. seafood, particularly as we build back from the COVID-19 pandemic. In addition to direct marketing, we are exploring ways to collaborate more closely with other agencies and groups on the need to modernize seafood supply chains; develop economic, market, and trade analyses; and contribute to gathering and disseminating price and supply data.

Finally, Section 203 of H.R. 4690 amends the Coastal Zone Management Act (CZMA) in an effort to promote water-dependent commercial activities and waterfront access in coastal communities through the authorization of a new grant program and a new loan program. Working waterfronts can help preserve the cultural and historic value of coastal communities, support the New Blue Economy, and bolster coastal resilience in the face of mounting climate change impacts. The New Blue Economy is a knowledge-based economy, looking to the sea not for extraction of material goods, but for data and information to address the societal challenges and to inspire their solutions. Under the existing CZMA, coastal states have the discretion to use funding for smaller-scale implementation of some of the purposes addressed by the Working Waterfronts Grant Program proposed in H.R. 4690. For example, many states use funds to redevelop, preserve, and promote public access to working waterfronts and for local waterfront planning and low-cost boardwalks, boat ramps, and public fishing piers.

Equity and Environmental Justice

The need to create a more inclusive management system with meaningful engagement of underrepresented stakeholders and the next generation of fishermen has never been more prominent. I am heartened by several aspects of H.R. 4690, which support the Administration's equity and environmental justice goals, including those under Executive Order 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government and Executive Order 14008 Tackling the Climate Crisis at Home and Abroad. For example, H.R. 4690 adds flexibility for the appointment of the Tribal seat on the Pacific Fishery Management Council and adds two seats to represent Alaskan Tribes on the North Pacific Fishery Management Council. These provisions, in addition to the inclusion of a definition for subsistence fishing in both bills, promote the participation of subsistence fishing communities into decision-making and address potential barriers to entry faced by underserved communities. NMFS is working diligently to support implementation of the Presidential directives and would similarly advance these bill provisions, including by engaging with the states, councils, and Tribes to increase diversity in the fisheries management process.

Sexual Assault/Sexual Harassment Prevention

Ensuring employees, including council employees and individuals who work on behalf of the Administration, are free from sexual assault and sexual harassment is a top priority for me and the other members of the NMFS and NOAA leadership teams. We appreciate the Sexual Assault/Sexual Harassment provisions in section 307 of H.R. 4690, which build upon the many efforts undertaken at NOAA, including setting up a sexual assault and sexual harassment council and creating an office for workplace violence prevention and response. In particular, we support the bills expansion of sexual assault and sexual harassment policies to fishery observers and at-sea monitors, who are particularly vulnerable as they work aboard commercial fishing vessels, often in remote locations. Additional aspects of the bill such as requiring detailed reporting by the appropriate authorities, holding offenders accountable, and creating a culture of support for victims are vital in creating cultures and workplaces that are safe to carry out the important responsibilities of the agency on behalf of the American people.

Primary Challenges and Concerns

Several provisions in H.R. 4690, the Sustaining America's Fisheries for the Future Act of 2021 and H.R. 59, the Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act, raise concerns as outlined below.

Resource Implications

Some of the provisions in H.R. 4690 and H.R. 59 change funding mechanisms or expand the scope and analytical requirements of management, research, and data collection efforts. Under current resource constraints, these provisions could redirect funding and staff resources away from core, mission critical activities.

For example, Section 308 of H.R. 4690 would change the Saltonstall-Kennedy authorizing legislation, precluding appropriations from being transferred to support fisheries science and management activities. For decades, Congress has used the Promote and Develop Fisheries account from the Saltonstall-Kennedy Act to fund a large percentage of NMFS's core science functions. Therefore, these changes will impact our ability to conduct fundamental mission activities including fisheries data collections, surveys, assessments, and fisheries management responsibilities.

Additionally, the bills include new data requirements, which would have significant budget, administrative, and program impacts. For example, we support the climate change focus of Section 102 of H.R. 4690, but the data requirements for this section would impose new mandates and workload requirements that the agency cannot meet with existing resources. The 2022 President's Budget includes $70 million in funding increases to boost climate-ready fisheries research, restore habitat to build climate resilience, and monitor climate-vulnerable species under the Endangered Species Act and Marine Mammal Protection Act. Given increased uncertainties about how climate will impact the productivity of fish stocks, in most cases the agency would not have the science capability to estimate a quantitative value Maximum Sustainable Yield (MSY), under prevailing and future conditions. We look forward to working with you to ensure we can achieve the goals of the section in a way that is attainable and effective.

In Section 503 of H.R. 4690, the Standardized Bycatch Reporting Program would establish a new standard for bycatch information that would substantially increase reporting and data collection requirements, require additional resources, and possibly require NMFS to refocus existing fishery observer program funding. Following an agency rule issued in 2017, council approaches to standardized bycatch reporting requirements are already becoming more consistent and transparent thereby strengthening their value and effectiveness. We will continue to work with the councils and in other arenas to reduce bycatch.

Finally, the scale and scope of some of the working waterfront objectives in Section 203 of H.R. 4690 are beyond what is envisioned and authorized under the existing CZMA and NOAA's core mission. Both the grant and loan programs go beyond NOAA's traditional range of science-based expertise. Additionally, offsetting funds from current CZMA programs for the new grant program would reduce current funding levels for coastal states and local governments that administer the full range of requirements for their NOAA-approved state coastal management programs. NOAA also has serious concerns regarding the implementation and management of a new direct loan program with complex requirements.

Reports, Short Timelines, and Implementation Concerns

Accountability is an important aspect of effective fisheries management; however, additional reports and process requirements can be a strain on councils and our workforce and may not effectively address the challenges we face. H.R. 4690 and H.R. 59 include new provisions and requirements that would require extensive action by the Secretary, NMFS, and/or the councils. While these provisions may provide useful information, many carry short deadlines and add significant new process requirements for the agency and councils. For example, H.R. 4690 requires over 20 new reports, several due annually. Similarly, H.R. 59 requires multiple new studies, reports, or plans within two years of enactment. H.R. 4690 also requires the Secretary to issue numerous guidance documents and implement new regulations within short deadlines. Fulfilling these mandates would significantly increase the workload of agency staff and compete with existing priorities and mandates. We would welcome your recommendations on how to ensure that reports already required could perhaps be modified to address the intent of the new reports requested in H.R. 4690 and H.R. 59.

Removing Flexibility, Impacts to Fishing Communities

Allowing the councils to develop and tailor regional solutions to their specific challenges is a fundamental component of our successful fishery management system. Certain provisions in H.R. 4690 and H.R. 59 limit the flexibility of the councils to develop the most appropriate fishery management approach for their specific region or fishery. For example, H.R. 59 contains several provisions that limit the ability of councils to adopt particular actions, including allocation review schedules (Sections 202 and 206), effective and timely catch share programs (Section 205), and

exempted fishing permits (Section 304). Other provisions in these bills could have significant impacts to our fishing communities. For example, Sections 502 and 503 of H.R. 4690 remove practicability clauses for minimizing bycatch and impacts to essential fish habitat. We strongly support the goal of reducing bycatch and ensuring healthy habitat for fish. However, this change would substantially reduce the ability of councils to tailor conservation and management measures commensurate with the specific needs of their region's fisheries and ecosystems.

Fishery Resource Disaster Relief

I am committed to doing a better job at turning around funding in the wake of fishery disasters. We support the intent of these bills to create more predictability and speed in the decision-making process, and understand your concerns regarding the amount of time it takes to determine fishery disasters, currently defined as commercial fishery failures due to a fishery resource disaster in the Magnuson-Stevens Act. However, several provisions of H.R. 4690 and H.R. 59 would create significant challenges in delivering timely assistance that targets fishing communities affected by events that cause economic harm or commercial failure outside of the natural variability in fisheries.

One of the key issues with declaring fishery disasters is the need to distinguish these disaster events from the natural variability that occurs in fisheries. Since fisheries depend on the productivity of the environment, there are natural variations in the number of fish caught each year and in the revenue generated by the fishery. H.R. 4690 includes a provision that redefines the baseline for determining whether or not a fishery resource disaster occurs by allowing requesters to compare a disaster year with "good years" instead of the most recent five years. This provision will make it very difficult to distinguish disaster events from naturally occurring variability, will likely increase the number of requests and disaster determinations, and will make it likely for disasters to be declared in perpetuity for fisheries that are in long term decline. This could be especially problematic when climate change is the driving force behind the decline.

In addition, the "Exceptional Circumstances" provision in H.R. 4690 will actually limit the Secretary's discretion to move swiftly, particularly following significant events such as hurricanes, when there is abundant qualitative information about the economic impacts but a shortage of quantitative data. To address Congress' timeline concerns, the agency is pursuing mechanisms to improve the quality of fishery disaster requests, streamline internal administrative processes, and enhance the economic and ecological sustainability of affected fisheries. These steps should increase the predictability of fishery disaster determinations, speed the issuance of relief, and better support the long term health of fishing communities.

Emerging Challenges

Further, we would like to work with the Subcommittee and the bills' sponsors to address a few additional issues related to emerging challenges in fisheries conservation and management. For example, as our ocean ecosystems change, it is important to recognize the role of uncertainty in our science and management and allow flexible approaches, which still preserve the very successful fisheries management construct that has resulted in U.S. fisheries being among the world's largest and most sustainable. Scientific and data limitations make some of the requirements in these bills (and the current Magnuson-Stevens Act) difficult and in some cases scientifically infeasible. For example, due to data limitations, estimating biological reference points is already challenging in some cases. Today, even setting effective annual catch limits for species in coral reef ecosystems in the Pacific Islands and Caribbean regions presents significant challenges due to lack of data regarding stock status and fishing harvests. NMFS is exploring ways to improve data collection and apply science-based and innovative management mechanisms in ways that provide flexibility while also rebuilding fish stocks. Explicit acknowledgement of the management challenges for data-poor fisheries would be beneficial in the statute. Similarly, scientific uncertainties often change our expectations for meeting fishery management objectives including rebuilding stocks by specific deadlines. Scientific uncertainty comes from a variety of sources including lack of data, research, and sometimes an inability to account for environmental change, including ecosystem productivity and pollution. Some of these factors are outside the control of fishery managers but nonetheless, affect fish stocks. Explicit acknowledgement of these issues and flexibility in our management construct would be beneficial, while including safeguards to protect the effective management system currently in place, which has led to long-term conservation and sustainability of our nation's fishery resources. We face formidable challenges managing recovering stocks to benefit both

commercial and recreational user groups with fundamentally different goals and objectives, and who are experiencing increased fish interactions due to the strong management measures that have improved historically overfished populations. Together with our partners, it is essential that we continue to explore innovative, science-based management approaches and regional management tools. We must remain dedicated to exploring ways to maximize economic opportunities from wild-caught fisheries for commercial and recreational fishermen, processors, and communities. The 2022 Budget helps address these challenges by requesting $684.7 million for expanded NMFS efforts in these areas, an increase of $47.4 million over 2021. These efforts would include increases to improving territorial fisheries science and management, workforce training to support the seafood industry, and expanding the community social vulnerability indicators toolbox to consider underserved communities.

Conclusion

I am committed to executing our mission for sustainable fisheries management and tackling the tough challenges ahead, including addressing climate change and promoting environmental justice. NMFS is eager to work with you to promote resilience in our fisheries and fishing communities. The participatory management structure through our regional fishery management councils forms the backbone of our successful management structure, and I hope the Magnuson-Stevens Act reauthorization efforts will continue to empower councils to meet the current needs of their fisheries, while ensuring sustainable, well-managed fisheries into the future. NMFS stands ready to work with the Congress on a reauthorization bill that addresses current fishery management challenges and ensures the Nation's fisheries are able to meet the needs of both current and future generations.

QUESTIONS SUBMITTED FOR THE RECORD TO MS. JANET COIT, ASSISTANT ADMINISTRATOR, NATIONAL MARINE FISHERIES SERVICE, ACTING ASSISTANT SECRETARY OF COMMERCE FOR OCEANS AND ATMOSPHERE, DEPUTY NOAA ADMINISTRATOR

Questions Submitted by Representative Young

Question 1. On the topic of forage fish conservation, both H.R. 4690 and H.R. 5770 require the National Oceanic and Atmospheric Administration (NOAA) to specify the annual dietary needs of all marine mammals, birds, and other fishes, as well as account for all of this when setting fishery quotas. Based on what we have seen in Alaska regarding the Agency's inability to accurately assess the dietary needs of just one marine mammal Distinct Population Segment—the Western Steller sea lion—and with the Agency's survey days-at-sea generally reducing in number—I find it extremely hard to believe NOAA and the Councils will be able to accurately determine all of these dietary needs for all these species every single year and I fear we will be left with nothing but precautionary decisions that will reduce our commercial, charter, tribal, subsistence, and recreational fishing activities. In your opinion:

(a) How might our management system be impacted by such legislation if it were to pass?

Answer. The National Marine Fisheries Service (NMFS) recognizes the importance of forage fish to maintaining healthy marine ecosystems and agrees in principle with the concept that ecosystem impacts should be a consideration in the management of forage fish. Under the current Magnuson-Stevens Fishery Conservation and Management Act (MSA), NMFS and the Regional Fishery Management Councils (Councils) have authority to manage forage fish and to take into account ecosystem impacts through the management of annual catch limits, the establishment of ecosystem component species, and implementation of ecosystem-based fishery management plans. The forage fish provisions in H.R. 4690 and H.R. 5770 would impose new scientific and management requirements on NMFS and the Councils to reduce harvest of fish that are currently managed according to the 10 national standards in the current MSA. These new requirements could affect a wide range of economically important stocks such as Alaska pollock and shrimp in the Gulf of Mexico. The requirement to manage forage fish such that the "diet needs of fish species and other marine wildlife, including mammals and birds . . ." are taken into account creates a very broad and data intensive requirement. There are trade-offs between the needs of different "marine wildlife," and this section does not clarify how to prioritize those objectives or how those objectives should be consid-

ered in the context of the rest of the national standards. In addition, it is not clear if Congress intends for these requirements to apply to forage fish that are actively managed or if they apply broadly to any species identified as forage in a management plan. It is not clear if the intent of Congress is to require the Secretary of Commerce to identify the dietary needs of each individual protected mammal or to manage broadly across the ecosystem for the collective needs of fish species and marine wildlife. Finally, the requirement for Councils to reduce catch limits for forage fish, particularly under climate related changing ocean conditions, appears to assume that sufficient forage for all marine wildlife will be achieved by reducing fishing. However, as climate related changes affect the abundance and distribution of forage fish, requiring Science and Statistical Committees to ensure sufficient abundance, diversity, and localized distribution of forage fish populations through a requirement for councils to reduce catch limits may not achieve conservation goals for forage and marine wildlife broadly. Determining the nutritional needs of any one species, including the Western Distinct Population Segment of Steller sea lion, is a complex and challenging scientific question that NOAA is continuing to research.

(b) In the case of not being able to fulfill these scientific requirements, could an increase in lawsuits be a possible outcome?

Answer. As with any legislative change, there is a possibility for new litigation. Unless Congress provides otherwise, any new requirement to specify and consider forage fish needs would be subject to MSA National Standard 2, which provides that conservation and management measures must be based on the "best scientific information available." The courts have recognized that this standard does not require an "accurate" assessment or determination, but rather that any analysis be reasonable based on what is available, and the courts generally give broad deference to NMFS' scientific judgment.

(c) What will be the impacts of climate change on shifting stocks of forage species and how will this be accounted for if we do not even have the basic data to implement this provision?

Answer. Climate change is affecting the distribution and productivity of many species in the marine environment, including both forage and non-forage fish. NOAA continues to work with partners to understand and respond to changing climate and ocean conditions to help minimize impacts, adapt to change, and ensure that present and future generations can enjoy benefits of healthy marine ecosystems. NOAA is also advancing science and technology to adapt fisheries management to changing climatic conditions. However, the specific impacts to individual species of forage fish will vary by region, their life history, and the degree of change occurring in the oceans. H.R. 5770 and H.R. 4690 would increase the scientific requirements for managed stocks and could result in additional species being deemed in need of conservation and management. In many regions we lack robust baseline information on fish and habitat distribution and regular surveys to assess changes in abundance, diversity, and productivity. The lack of basic information challenges our ability to quantitatively attribute fishery specific fluctuations to climate change, which could lead to more conservative management advice. The expanded requirements outlined in H.R. 5770 and H.R. 4690 would substantially increase the capacity needs for our science and management capabilities.

(d) What are your thoughts about Alaska Pollock and sockeye salmon, which remain at low trophic levels and could easily be swept up in this ill-conceived but far-reaching legislation?

Answer. Under H.R. 4690, it is the Secretary's responsibility to develop a definition of forage fish. The bill gives the Secretary several criteria to consider. Under those criteria alone, it is possible that Alaska pollock, some salmon species, or other critical commercial fisheries could be considered forage fish and subject to the new science and management provisions of these bills. However, while the Secretary must consider those criteria, she ultimately has the authority to develop the definition. The agency would likely establish that definition through a regulatory process, and NOAA cannot pre-determine the results of that process, which would take into account public input.

Question 2. Regarding litigation on forage fish management, NOAA has been challenged three times in recent years on shad and river herring, in which NOAA has prevailed twice and is about to prevail in the third and final case. In addition, the Mid-Atlantic Fishery Management Council (MAFMC) has already considered, and declined, this specific issue twice. During which, NOAA voted twice to oppose inclusion of such species.

We understand these cases included the following:

Flaherty v. Raimondo, *a case in the District of Columbia regarding Amendment 5 to the Herring FMP, NMFS won on summary judgment in March 2021, and the time for appeal has run, so this case is done. In this case the Plaintiffs claimed that the NMFS violated the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and Administrative Procedure Act by not disapproving Amendment 5 due to its failure to include river herring and shad as stocks in the Atlantic herring fishery. Judge Kelly ruled that the MSA does not require the Secretary to consider in each Amendment whether stocks must be added to a fishery. The Judge also ruled that the Secretary complied with the NEPA's obligation to take a hard look at a reasonable range of alternatives designed to achieve the amendment's objectives. Judge Kelly held that while the Amendment included measures relating to bycatch of river herring and shad, the National Marine Fisheries Service was not required to consider alternatives for adding river and shad as stocks in the Atlantic herring fishery because it was not within the scope of the Amendment's goals and objectives.*

Anglers Conservation Network v. Ross, *also in DC before Judge Kelly, the plaintiffs challenged the Council's October 2016 decision not to include river herring and shad into mackerel Fishery Management Plans (FMP) after remand from earlier case by same plaintiffs. The parties filed summary judgment papers, and with its opening brief NMFS also filed motion to strike extra record materials that plaintiffs cited in their briefs. In May 2021, the court ordered the plaintiffs to refile a new brief without the extra record materials. The plaintiffs never filed anything, and the court dismissed the case on June 23, 2021 for failure to prosecute.*

Natural Resources Development Council vs Secretary of Commerce. *There's only one active case remaining relating to river herring, and it's the challenge to the National Marine Fisheries Service's (NMFS) 2019 determination that the Endangered Species Act (ESA) listing of river herring wasn't warranted. That case, brought by Natural Resources Defense Council, is in the District of Columbia and is in the last stages of summary judgment briefing, with NMFS's reply brief due on November 19.*

Based on this information my questions are as follows:

Both H.R. 4690 and H.R. 5770 require your Agency to specifically add shad and river herring to New England Fishery Management Council (NEFMC) and MAFMC fishery management plans on the East Coast, the very same issues the courts ruled against the plaintiffs (and in favor of NOAA) in the cases referenced above.

(a) Do you believe it is appropriate for Congress to now circumvent and undermine NOAA's recent efforts in defending your management of forage fish as it relates to the requirements in H.R. 4690 and H.R. 5770?

Answer. The MSA establishes a stakeholder-driven, scientifically based fishery management council process that allows for regionally specific solutions for particular forage fish issues. NOAA strongly supports this process. The requirements in H.R. 4690 and H.R. 5770 to add river herring and shad to New England and Mid Atlantic Council fishery management plans remove Council discretion for determining which stocks are in need of conservation and management. In addition, adding the same stocks (shad and river herring) to two different FMPs managed by two different Councils would add an additional layer of complexity to managing these stocks, noting that both are currently subject to management under the Atlantic States Marine Fisheries Commission. Both the New England and Mid-Atlantic Council have established catch caps for river herring and shad designed to ensure bycatch of these species does not increase while holding the directed fisheries that incidentally take these species as bycatch accountable.

(b) Do you believe it is appropriate for Congress to undermine the Court's prior rulings on these issues?

Answer. The dynamic science-based management process under the MSA provides the nation with a very successful fisheries management construct. The unique, highly participatory management structure centered on the regional fishery management council system encourages a collaborative, "bottom up" process where fishermen, other fishery stakeholders, affected states, Tribal governments, and the Federal Government all provide input and influence decisions about how to manage U.S. fisheries under the law. NOAA supports this process.

(c) Can you please explain the management ramifications for commercial midwater trawl fisheries (and specifically New England Small Mesh bottom trawl and any other applicable fisheries) that might occur if these species were added to numerous East Coast FMPs?

Answer. The Mid-Atlantic and New England Fishery Management Councils have established numerous conservation and management measures that may be affected by new forage species Fishery Management Plans. The Mid-Atlantic and New England Fishery Management Councils adopted catch caps for both shad and river herring in the Mackerel, Squid, Butterfish Fishery Management Plan (FMP) and Atlantic Herring FMP, where the directed fisheries are closed when catch of forage species reaches the set amounts. In addition to these catch caps, we have approved measures that take into account the importance of numerous other forage species. Both FMPs have established catch caps for river herring and shad that serve to ensure bycatch of these species doesn't increase and to hold the directed fisheries accountable. Both species are currently managed by the Atlantic States Fisheries Management Commission. Further adjusting these FMPs and requiring co-management would be challenging given the intersection of two Councils advising on Federal management and the need to coordinate with state management through the Commission.

Question 3. Forage fish conservation in H.R. 4690 (Section 508) and H.R. 5770 (and S. 1484) is a major component of the MSA reauthorization debate. However, you do not address the topic in your written testimony for this, the only House reauthorization hearing we will have. As the implementing agency, this provision has the potential to significantly impact your management of Alaska Pollock, the largest fishery you manage, as well as squid fisheries critical to your home state of Rhode Island, West Coast pink shrimp, Gulf of Mexico brown shrimp, and California sardine, just to name just a few. The issue also has implications for nearly every marine mammal stock your agency manages yet you provide no perspective on the topic. Can you please explain to the Committee:

(a) Why you did not comment on this component of H.R. 4690 for the MSA hearing?

Answer. The bills being considered at this legislative hearing were extensive and we were not able to comment on every provision. Forage fish conservation and protections are important to ensuring sustainable fisheries in the U.S. and NMFS, and our management partners, the Regional Fishery Management Councils, continue to improve management of forage fish under the existing, robust MSA provisions currently available for use, including through advancements in ecosystem-based fisheries management.

(b) Specifically, is the current MSA implementation (including the ecosystem-based management approaches) by the Regional Councils and the Agency deficient to such a degree that we need to add this component to the Act?

Answer. Under the current framework in the MSA, multiple councils have implemented measures that directly benefit forage fish and that respond to region-specific fishery interactions and ecosystem needs. The current MSA provides NMFS and the Regional Fishery Management Councils authority to manage forage fish and to take into account ecosystem impacts through the management of annual catch limits, the establishment of ecosystem component species, and implementation of ecosystem-based fishery management plans. For example, the Mid-Atlantic Fishery Management Council currently conserves and manages 56 forage species or species groups, including five stocks of forage fish under one fishery management plan using the principles established in their Ecosystem Approaches to Management guidance document. The Pacific Fishery Management Council also defines forage fish under its Fishery Ecosystem Plan and manages them through their respective fishery management plans. The North Pacific Fishery Management Council takes a precautionary approach to management using existing authority under the MSA. That Council prohibits directed fishing for key forage fish species like eulachon and sets strict limits on the amount of incidental catch of these species to reduce harvest. NMFS and the State of Alaska monitor the catch of these species and can modify management measures using existing authority provided by the MSA, if needed.

Question 4. It's clear that NOAA Fisheries, councils, harvesters, processors, and wide-ranging fisheries stakeholders understand that commercial fisheries management must adapt to changing habitats and fish distributions, driven by changes in climate. Testimony at this hearing covered a long list of actions the NPFMC is taking to address climate resilience, and you also noted a number of things that NOAA Fisheries is doing for climate resilience. All these things are being done under current MSA and other authorities.

(a) Is there anything in the current MSA that prevents NOAA Fisheries from pursuing climate resilience? In other words, can NOAA Fisheries continue to pursue climate resilience efforts under current authority?

Answer. The current MSA neither mandates nor prevents NMFS and the Councils from taking action to pursue climate resilience and climate-ready fisheries. In fact, the MSA already contains many provisions aimed at ensuring the long-term sustainability of fish stocks and their ecosystems (e.g., requirements to end overfishing, rebuild stocks, prevent bycatch and protect habitat). NMFS is working with our partners on multiple fronts to deliver the science and prepare managers to respond to these changes. We have conducted climate vulnerability assessments of fish, protected species, habitats, and fishing communities. We have seven vulnerability assessments completed or underway that provide information on what species may be most vulnerable to changing climate. We are advancing the implementation of ecosystem-based fisheries management, which provides the framework for incorporating ecosystem information into fishery management decisions and assessing trade-offs across fisheries. The agency and councils are currently taking concrete steps to prepare for and respond to climate change impacts on fisheries. For example, NOAA is advancing an agency-wide initiative—the "Climate and Fisheries Initiative"—to build the operational ocean modeling and decision-support system needed to reduce impacts, increase resilience, and help marine resources and resource users adapt to changing ocean conditions. This initiative is a critical component of the President's Budget in fiscal year 2022. Another example is the work that NMFS and our Council partners have initiated on the east and west coasts to conduct scenario planning workshops. Scenario planning helps councils and stakeholders work collaboratively to identify priority management, jurisdictional and governance issues related to climate change and shifting fish stocks as a result of climate change. However, meeting the needs for climate resilience at a pace commensurate with the changes occurring in the environment in some areas may be challenging given competing science and management priorities, the difficulty of distinguishing climate impacts from fishing impacts, and governance challenges around long-held power and decision-making structures.

(b) Does NOAA support maintaining regionally based council and SSC efforts to address climate change conditions unique to each region?

Answer. The MSA establishes a stakeholder-driven, scientifically based fishery management council process that allows for regionally specific solutions. The climate impacts to specific fisheries varies by region, and the MSA currently provides flexibility to allow for tailored regional solutions given the high diversity of fisheries, their environments and the type of environmental changes occurring due to climate change.

(c) Region-based climate resilience work can be facilitated by data generated through NOAA surveys, so how can NOAA Fisheries better provide this and other technical support to regions?

Answer. NOAA is advancing an agency-wide initiative—the "Climate and Fisheries Initiative"—to build the operational ocean modeling and decision-support system needed to reduce impacts, increase resilience, and help marine resources and resource users adapt to changing ocean conditions. This initiative is a critical component of the President's Budget in fiscal year 2022. The results of climate vulnerability assessments along with other information will help NMFS prioritize science investments, while scenario planning will help NMFS and our Council partners identify management priorities for climate ready fisheries to further assist in prioritizing science advancements. This initiative will complement ongoing survey and monitoring work needed to better predict ecosystem changes due to climate impacts and manage fisheries in light of those changes. NMFS is also developing a new portal to provide easy access to information on past, current, and likely future distributions of marine species for use in fisheries management.

Question 5. There are some provisions in H.R. 4690 that would remove the term "to the extent practicable" in fisheries management national standards, including for bycatch minimization and essential fish habitat impact minimization.

(a) If bycatch and habitat impacts had to be minimized—meaning bycatch or impact is as small as possible and cannot possibly be further reduced—what effect would that have on the ability to prosecute U.S. commercial fisheries?

Answer. In the United States, bycatch of protected species, such as sea turtles and marine mammals, remains a significant threat to recovering many dwindling populations. NMFS manages protected species bycatch and its impacts through several authorities, including the MSA, the Marine Mammal Protection Act (MMPA), the Endangered Species Act (ESA), and other domestic laws and international agreements. NMFS is committed to minimizing protected species bycatch in U.S. fisheries

to ensure our protected species are given the best chance to recover and serve as functioning elements in the ecosystem.

Bycatch of other species is a complex, global issue that can potentially threaten the sustainability and resiliency of fishing communities, economies, and ocean ecosystems. Given the highly diverse nature of such bycatch across the over four hundred federally managed fish stocks, the MSA provides flexibility to tailor conservation and management measures to the specific regions, their ecosystems, and communities. Many of the most economically important commercial fisheries are prosecuted with some degree of bycatch. Currently, we are required to minimize that bycatch "to the extent practicable." We caution that deleting "to the extent practicable" may create analytical problems and implementation confusion and could lead to management changes and increased costs in many fisheries.

(b) How would NOAA Fisheries evaluate whether minimization had occurred? If the practicability term is removed and results in litigation, what would be the effect of having judges rule on minimization requirements?

Answer. Currently, for non-protected species bycatch, National Standard 9 of the MSA requires that Conservation and management measures shall, to the extent practicable, (a) minimize bycatch and (b) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch. "Bycatch" means fish that are harvested in a fishery, but that are not sold or kept for personal use. Our guidelines for implementing National Standard 9 (50 C.F.R. 600.350) provide that the priority under this provision is "first to avoid catching bycatch species where practicable. Fish that are bycatch and cannot be avoided, must, to the extent practicable, be returned to the sea alive. In their evaluation, the Councils must consider the net benefits to the Nation, which include, but are not limited to: Negative impacts on affected stocks, incomes accruing to participants in directed fisheries in both the short and long term; incomes accruing to participants in fisheries that target the bycatch species; environmental consequences; non-market values of bycatch species, which include non-consumptive uses of bycatch species and existence values, as well as recreational values; and impacts on other marine organisms." NMFS and the Councils currently evaluate all of their conservation and management measures to determine whether minimization has occurred and whether further minimization is practicable. We are not aware of a judicial decision regarding any evaluation of minimization by NMFS or the Council to date.

(c) Does NOAA Fisheries support removing "to the extent practicable" for bycatch and habitat impact minimization?

Answer. NMFS strongly supports the goal of reducing bycatch and ensuring healthy habitat for fish. Currently, each council has the flexibility to establish its own threshold of "practicability" for minimizing bycatch and adverse effects on fish habitat. Removing "to the extent practicable" would reduce the ability of councils to tailor conservation and management measures commensurate with the specific needs of their region's fisheries and ecosystems and could have significant impacts to many commercial fisheries and our fishing communities.

Question 6. Certain provisions in H.R. 4690 suggest that it's problematic for harvesters and processors to serve as council members. Yet the Council system of regional decision-making fundamentally relies on expertise in and knowledge of the fisheries under the authority of the Council, and—in cases like the NPFMC—this expertise has been instrumental in implementing expansive closed areas, fishing reductions based on climate change and stock declines, and other actions that reduce fishing opportunity. Moreover, current law has many safeguards in place—including disclosures, recusals, and other provisions—to ensure transparent and proper council function; in fact, NOAA Fisheries just issued a final rule updating this policy in September 2020.

(a) Are you finding that NOAA's recusal and disclosure rules and regulations are working?

Answer. NMFS has undertaken a number of important actions to improve the process for disclosure of financial interests by, and voting recusal of, Council members appointed by the Secretary of Commerce. In 2020, NOAA Fisheries published a final rule (85 FR 56177) with changes to the regulations to better address disclosure of financial interests. Following these regulatory changes, and to strengthen guidance on the review of financial disclosures by appointed members of the Councils, NMFS also updated policy and procedural directives to align with the final rule. These documents clarify the responsibilities of NOAA and Councils relating to financial disclosures, establish a vetting process to review the completeness and

accuracy of information in nominees' and members' disclosure forms, and clarify the process by which NOAA and the Councils identify Council members' conflicts of interest. These policy and procedural directives can be found at: https://www.fisheries.noaa.gov/national/laws-and-policies/fisheries-management-policy-directives.

Further, in response to requests for transparency and predictability, NMFS, in conjunction with the Councils, will publish and make available to the public Regional Recusal Determination Procedure Handbooks, which will explain the process and procedure typically followed in preparing and issuing recusal determinations in each Region. These actions have improved the process for voting recusals and disclosure of financial interests for Council members.

(b) What is the value of having experts and direct stakeholders from industry serving on the councils?

Answer. Experts and industry stakeholders are valuable to the fishery management process because they bring different perspectives and expertise to bear. The unique, highly participatory management structure, through the councils, encourages a collaborative, "bottom up" process where fishermen, other fishery stakeholders, affected states, Tribal governments, and the Federal Government all provide input and influence decisions about how to manage U.S. fisheries under the law.

(c) Under current council membership structures, have Councils been able to uphold requirements for using the best available science?

Answer. National Standard 2 of the MSA requires that conservation and management measures be based on the best scientific information available. The National Standard 2 (NS2) guidelines and other agency guidance provide legislative, policy, scientific, and process requirements to ensure that the mandate for using the best scientific information available (BSIA) is upheld. Council members have an important role in developing and recommending fishery management measures, and there are many steps in the process to ensure those measures are based on BSIA. For example, the MSA requires that annual catch limits are consistent with the advice of the Councils' Scientific and Statistical Committees. Additionally, the MSA requires the Secretary to determine if fishery management plans recommended by Councils are consistent with national standards, including NS2's BSIA requirement. The agency's NS2 guidelines provide further guidance on what constitutes BSIA for fishery conservation and management measures, provides standards for scientific peer review, and clarifies the role of the SSC in the review of scientific information for its Council.

Questions Submitted by Representative González-Colón

Question 1. The Magnuson-Stevens Act (MSA) has worked quite well in the U.S. Caribbean—Puerto Rico and the U.S. Virgin Islands. The law has provided our regional council, the Caribbean Fishery Management Council, the necessary authorities, and flexibilities to sustainably manage our fisheries, while balancing both environmental and local economic needs.

However, our fisheries in the U.S. Caribbean are still considered "data poor," which creates challenges for stock assessments to determine overfishing limits, annual catch limits, and the status of local fisheries. The situation is further complicated when considering that our commercial fisheries in Puerto Rico are, for the most part, small-scale or traditional in nature. As such, they may lack the necessary tools and capacity to support these data requirements.

Based on my conversations with stakeholders, there is a clear need for dedicated funding to improve data collection systems for fisheries in Puerto Rico and the U.S. Virgin Islands, as well as for additional scientific research and studies to better inform management decisions in the U.S. Caribbean.

I appreciate you discussing in your written testimony the challenges we face in setting effective annual catch limits for species in coral reef ecosystems in the Pacific and the Caribbean due to lack of data regarding stock status and fishing harvests.

(a) As Congress considers legislation to reauthorize the Magnuson-Stevens Act, what additional resources or authorities would NOAA need to improve regional data collection systems and address long-standing fishery data gaps such as those in the U.S. Caribbean?

Answer. While NOAA Fisheries has made great strides in improving data collection and assessment methodology over the past 20 years, many data-limitations still remain in territorial, tropical reef, and recreational fisheries. NOAA does not believe

that new authorities are required to develop, initiate, or execute new data collection programs. However, new resources would be required to address long-standing and emerging challenges for all recreational fisheries, particularly related to in-season monitoring, addressing the unique needs of recreational fisheries and more effectively integrating information from state, federal or territorial data sources to inform management options.

Specific to the U.S. Caribbean, NOAA Fisheries requested $1 million in the FY 2022 President's Budget as part of the Territorial Science initiative to enhance cooperative data collection and outreach. Examples of activities include expanding fisheries-independent surveys to improve biological life history information; bolstering data collection activities for commercial and recreational landings and fishing effort; standing up a Territorial and Federal cooperative data governance structure; and enhancing socioeconomic services and capacity. NMFS would implement these programs cooperatively with the Territorial agencies.

(b) In your testimony, you state that it would be beneficial to explicitly acknowledge in statute the management challenges for data-poor fisheries. Could you elaborate on this recommendation?

Answer. Due to data limitations, estimating biological reference points and even setting effective annual catch limits for certain species can present significant challenges. This can be due to lack of information on stock biomass, species life history, and a sometimes limited ability to monitor and enforce fishery removals. NMFS continues to explore ways to improve data collection and apply science-based and innovative management mechanisms in ways that provide flexibility while also effectively conserving and managing fish stocks, consistent with the MSA. For example, the National Standard 1 (NS1) guidelines include a provision recognizing that there are limited circumstances, including in the case of some data-limited stocks, that may not fit the standard approaches to specification of reference points and management measures. In these cases, Councils currently have flexibility to propose alternative approaches for satisfying the MSA. NMFS is developing technical guidance that identifies recommended practices for managing with annual catch limits in data-limited fisheries and provides advice on when and how to use such flexibilities for data-limited stocks. The President's 2022 budget also helps address these challenges by requesting $3 million to improve territorial fisheries science and management. Explicit acknowledgement of the management challenges for data-limited fisheries would also be beneficial in the statute. For example, "objective and measurable criteria" are required under Section 303(a)(10) of the Magnuson-Stevens Act for determining when a stock is subject to overfishing or is overfished. Typically, these criteria are based on maximum sustainable yield (MSY) or MSY proxies. For some data-limited stocks, it may not be possible to specify criteria based on MSY or MSY proxies. Congress may want to acknowledge this by stating within Section 303(a)(10) that "when data are not available to specify criteria based on MSY or MSY proxies, alternative types of criteria that promote sustainability can be used." In addition, if Congress adds additional analytical requirements to the MSA process, the agency may not have sufficient information to meet these requirements for data-limited stocks.

(c) What actions, if any, has NOAA Fisheries taken to date to improve data collection systems in the U.S. Caribbean?

Answer. NOAA fisheries has several initiatives underway to improve data collections and data collection systems in the U.S. Caribbean. An exhaustive list can be provided upon request but a few items to highlight include:

- Fishery Information Systems: a funded study to improve efficiency of sampling through automation/machine learning;
- Development of indices of abundance of harvested species;
- Fishery-dependent indices using catch and effort data from commercial fisher logbook data for Puerto Rico and the USVI;
- Fishery-independent indices using the Reef Fish Visual Census (RVC) survey in Puerto Rico and the USVI;
- Cooperative research with Puerto Rican anglers to develop a recruitment index for Spiny Lobster.
- Support the Deep-Water Snapper Camera Survey: preliminary work is underway to design a fishery-independent survey for deep-water species;

- U.S. Virgin Islands Trap Study in partnership with USVI Department of Fisheries and Wildlife and USVI Diver Surveys—in partnership with University of the Virgin Islands (St. Thomas survey) and the U.S. Park Service (St. John and St. Croix surveys); and
- In collaboration with regional partners, MRIP developed an Implementation Plan for the Caribbean with action items to establish MRIP catch and effort sampling in the USVI and improve currently suspended MRIP surveys in Puerto Rico.

Additionally, NOAA Fisheries recently completed a "Gap Analysis" for all federally managed species in the U.S. Caribbean. The Gap Analysis describes the current data availability for the five main types of stock assessment inputs (abundance, catch, life history, size/age composition, and ecosystem linkages), establishes "target" levels for each of these data input categories, and compares the current against target levels to define stock-specific data gaps that must be addressed to deliver the necessary complexity of science-based management information for each stock. This analysis will continue to inform improvements to data collection programs.

(d) Based on your analysis of H.R. 59 and H.R. 4690, would any of the provisions or amendments to the MSA included in either bill provide NOAA or the Caribbean Fishery Management Council the necessary authorities, flexibilities, resources, or tools to improve data collection systems for fisheries in Puerto Rico and the U.S. Virgin Islands?

Answer. The provisions in H.R. 59 and H.R. 4690 are extensive and have implications for NOAA and all of the regional fisheries management councils. Scientific and data limitations make some of the requirements in the bills difficult. However, there are provisions in both bills that seek to improve data. For example, Section 402 H.R. 4690 recognizes the importance of using technology to help improve and expand data collection for fisheries management by adding electronic monitoring as an option under Fishery Management Plans in addition to human observers. Section 409 recognizes the increasing challenges of conducting stock assessments and fisheries surveys with the growing demand for offshore wind energy, and requires the Departments of Commerce and the Interior to enter into a cooperative agreement to help mitigate potential disruption to current fisheries surveys. The President's 2022 budget request would also provide additional resources and tools to improve data collection systems for fisheries in Puerto Rico and the U.S. Virgin Islands.

These efforts would include increases to improving territorial fisheries science and management, workforce training to support the seafood industry, and expanding the community social vulnerability indicators toolbox to consider underserved communities.

Question 2. In Puerto Rico most of our fisheries are small-scale in nature, involving fishing households, relatively small vessels, and subsistence or commercial fishing for local consumption. There is little to no export. However, they are still an important component of our economy. In 2019, commercial fisheries landings in Puerto Rico totaled 1.6 million pounds and contributed $8.2 million to the economy.

Yet, when discussing the Magnuson-Stevens Act and policies to support our domestic fishing industries, I fear we sometimes tend to focus on larger commercial fishing operations and forget about the needs of our small-scale fishermen such as those in Puerto Rico. I therefore take this opportunity to respectfully urge NOAA to explore initiatives that would help address the unique needs of small-scale fisheries, including capability-building efforts that would improve data collection efforts and opportunities to enhance their economic wellbeing.

(a) What initiatives has NOAA pursued to support small-scale fisheries such as those in the U.S. Caribbean? How can Congress amend the Magnuson-Stevens Act to improve or facilitate such efforts?

Answer. Since 2013, NOAA Fisheries has dedicated funds toward a Territorial Science Initiative dedicated to improving data collection in the Territories (Pacific and Caribbean), with dedicated funding of about $1M in addition to other base funding. Of these funds, $300–500K/year has been allocated for data improvements in the U.S. Caribbean, including an ongoing study to optimize sampling procedures and statistical approaches to estimate annual commercial landings in Puerto Rico, a similar ongoing project to develop a survey design for estimating commercial and recreational fishery landings in the U.S. Virgin Islands, an evaluation of gear selectivity for Spiny Lobster in Puerto Rico and the USVI, refinements to benthic habitat maps for U.S. Caribbean coral reef ecosystems, a pilot project in collaboration with

local anglers to develop a fishery independent recruitment index for Spiny Lobster, and various targeted studies to improve life history information for managed species. This research was essential for the recent stock assessments of Spiny Lobster in Puerto Rico, St. Thomas/St. John and St. Croix.

(b) I would welcome any additional observations or recommendations you might have to ensure the Magnuson-Stevens Act better reflects and responds to the needs of small-scale fisheries such as those in the U.S. Caribbean.

Answer. The dynamic science-based management process under the MSA provides the nation with a very successful fisheries management construct. However, amid these successes, some critical challenges remain. The need to create a more inclusive management system with meaningful engagement of underrepresented stakeholders and the next generation of fishermen has never been more prominent and remains an important issue for small-scale fisheries in the Caribbean. Other challenges in the Caribbean include setting effective annual catch limits for species due to lack of data regarding stock status and fishing harvests. Explicit acknowledgement of the management challenges for data-poor fisheries would be beneficial in the statute. Similarly, scientific uncertainties often change our expectations for meeting fishery management objectives including rebuilding stocks by specific deadlines. Scientific uncertainty comes from a variety of sources including lack of data, research, and sometimes an inability to account for environmental change, including ecosystem productivity and pollution. Some of these factors are outside the control of fishery managers but affect fish stocks nonetheless. Explicit acknowledgement of these issues in our management construct would be beneficial, while including safeguards to protect the effective management system currently in place, which has led to long-term conservation and sustainability of our nation's fishery resources.

Question 3. On September 21, 2020, the Secretary of Commerce approved the three island-based fishery management plans (FMPs) prepared and submitted by the Caribbean Fishery Management Council. However, it is my understanding that the National Marine Fisheries Service (NMFS) is still developing regulations to implement management measures for the three island-based FMPs.

(a) By when does the NMFS anticipate it will finalize these regulations and fully implement the three island-based FMPs for the U.S. Caribbean? What is the latest status of these efforts?

Answer. The proposed rule to implement the regulations associated with the FMPs is under review. We anticipate the proposed rule publishing in early 2022 and a final rule implemented in the spring of 2022.

Mr. HUFFMAN. Thank you, Ms. Coit.

The Chair now recognizes Mr. Gorelnik to testify for 5 minutes.

STATEMENT OF MARC GORELNIK, CHAIR, COUNCIL COORDINATION COMMITTEE AND PACIFIC FISHERY MANAGEMENT COUNCIL, PORTLAND, OREGON

Mr. GORELNIK. Chairman Huffman and Ranking Member Young, my name is Marc Gorelnik. While I am Chair of the Pacific Fishery Management Council, today I will testify on behalf of the Council Coordination Committee. The CCC is made up of the leadership of the eight Regional Fishery Management Councils.

Let me start by saying that the MSA works. The Act requires that fisheries management be science-based, be conducted in a transparent manner, and include all stakeholders at the table. The Secretary of Commerce ensures the decisions comply with all laws before implementation. While this is time consuming, it ensures that decisions are fully transparent and science-based.

Our success is clear: commercial, recreational, and subsistence fisheries are key contributors to our coastal communities, including disadvantaged communities, and the nation's economy. This is because the Act structured a very successful regional approach to

sustainable fisheries management, and the councils are its keystone. These domestic fisheries provide healthy, sustainable protein for the entire nation, recreational opportunities for millions of Americans, and cultural benefits to subsistence fisherman.

It is worth noting where the two authorization bills agree. Both identify the need for more and better science; better data collection, in particular for data poor stocks and recreational fisheries; transparency in decision making; increased recognition of subsistence fishing; council coordination for shifting or transboundary stocks; cooperative research; and the potential benefits of electronic monitoring. The councils are already addressing many of these issues raised in the bills.

Our regional approach to management means legislation can affect each council differently. This is reflected in our individual feedback letters on H.R. 4690. My remarks will briefly summarize our shared concerns.

Both bills emphasize the importance of adequate data and stock assessments. This emphasis on improving the science will help us adapt to the changing environment. We note, however, that many regions lack the basic data needed to meet current requirements, let alone new mandates. Directives to include new items and FMPs may be impossible to address, particularly if data do not exist to support the requirements or they are not adequately funded.

We share in the interest in a transparent, ethical council system. Council members and staff are already subject to rules of conduct published by NMFS. However, it is unclear how these new provisions will be enforced and what their impacts would be.

We agree that clarifying prohibitions against sexual harassment apply to council, committee, and advisory panel members will help make for a more welcoming environment, but it will also create a need for periodic training.

My written testimony touches on a number of key issues on all three bills.

Let me highlight just few from H.R. 4690. The ability of councils to successfully manage fisheries in the face of climate change will require the ability to adapt to changing species distributions and productivity. However, many regions currently lack the baseline of fish and habitat surveys necessary to understand and quantify changes clearly attributable to climate change. This lack of basic data will make it more difficult to comply with new legislative requirements.

Current law requires councils to minimize adverse effects of fishing on habitat and to minimize bycatch to the extent practicable. H.R. 4690 would remove the practicability standard. This phrase provides councils the ability to develop measures that take into account all of the National Standards, and the removal of this qualifier will lead to increased litigation.

Prohibiting councils from contacting the Administration on presidential actions will limit the ability of the councils to provide their expertise developed over decades. The requirement to document all communications with Federal or State officials on subjects other than routine fishery management creates a tremendous administrative burden and will jeopardize our attorney-client

relationship with NOAA General Counsel. We know of no other organization subject to such requirements.

Finally, forage fish are clearly important to ecosystem-based fishery management and most, if not all, counsels have already taken measures to conserve forage fish. However, regional differences in fisheries make it difficult to define forage fish with a one-size-fits-all description or criteria.

I want to acknowledge the supportive relationship between the councils and the National Marine Fishery Service. The Service is a key participant in the council process and a key provider of the information we need. The regional offices and science centers are critical to our process, but they will also be challenged to meet the additional legislative requirements.

Thank you, Mr. Chairman, for the opportunity to present the views of the Council Coordination Committee, and I am happy to answer any questions.

[The prepared statement of Mr. Gorelnik follows:]

PREPARED STATEMENT OF MR. MARC GORELNIK, CHAIR, PACIFIC FISHERY MANAGEMENT COUNCIL AND CHAIR, COUNCIL COORDINATION COMMITTEE

Chairman Huffman and Congressman Young, my name is Marc Gorelnik and I am here today to testify on behalf of the Council Coordination Committee (CCC), which is made up of the chairs, vice chairs, and executive directors of the eight Regional Fishery Management Councils that were created under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act or MSA).

Thank you for inviting me here today to speak to the reauthorization of the Magnuson-Stevens Act.

Let me start by saying that Magnuson-Stevens Act works. The Act requires that fisheries management be science-based, be conducted in a transparent manner, and be done with fishermen, scientists and other stakeholders at the table and involved in the management decisions that affect their livelihoods, their communities (including disadvantaged communities), and their futures. The Act requires fishery managers to balance the long-term environmental needs of the fisheries with the goal of maximizing the use of a natural resource to provide a healthy, renewable source of protein for the Nation. The Act includes a number of checks and balances to ensure that these sometimes competing goals can be met while maintaining the health of our fishery resources and the oceans that the fish rely on.

Without a doubt, this statute established the United States as the world's premier manager of fisheries resources. One of the major strengths of the Act is its support of a regional approach to fisheries management that is guided by an overarching federal framework. The eight Regional Fishery Management Councils are the cornerstone of that system.

The Councils fill a unique fishery management role. Our members include representatives from state, federal, and tribal fishery management agencies, as well as appointed members selected for their fisheries knowledge and expertise. We prepare the management plans that guide fishing in federal waters. The National Marine Fisheries Service (NMFS), on behalf of the Secretary of Commerce, reviews our proposals and implements them if the actions are consistent with the law. While I am the current chair of the Pacific Fishery Management Council, today I speak to you as the representative of all eight regional councils. We meet regularly as the Council Coordination Committee to discuss cross-regional issues and collaborate with NMFS on strategic planning and policy development.

As a group, we are strong believers in the Magnuson-Stevens Act—and not just because it established the Councils. The outcome of our management success is clear: commercial, recreational, and subsistence fisheries are key contributors to our coastal communities and the nation's economy. In large measure this is because the Act structured a very successful approach to sustainable fisheries management. Central to the Act are the 10 National Standards that guide our management process. National Standard 1, which is the most important, requires that conservation and management measures shall prevent overfishing while achieving optimum yield from each U.S. fishery.

Let me emphasize the many successes of the MSA and the Council system. While some stakeholders have expressed frustration with specific Council decisions—and no doubt your phones ring when that happens—I think it is important to note that the MSA actually gives stakeholders seats at the table. The MSA created these Councils to provide a public forum for fishery management decisions to be made. This public forum allows fishery managers, state officials, fishermen, academics, environmental groups, federal officials, and other interested parties to have a say in the management of our public resources. The decisions made through this public process are based on the best scientific information available and use stock assessments that have been conducted in a public manner and peer reviewed. Finally, the decisions made by the Council are then again reviewed by the Secretary of Commerce and published in the Federal Register for an additional public comment period.

While this is a time-consuming and sometimes duplicative process, it ensures that decisions are fair, informed, and science-based. The process also is fully transparent.

We should not be content to rest on our laurels. We believe that, going forward, we can improve our efforts. Today I would like to highlight some of the issues that we believe need to be addressed. As will be no surprise, our regional approach to management means that the Councils each face different challenges. Despite these differences, there are a number of areas where our opinions on needed improvements are consistent. On a number of issues raised by the bills before us today such as the protection of forage fish, managing fisheries in the face of climate change, protecting important fisheries habitat, managing on an ecosystem level, etc., the Councils are already incorporating these important themes into fishery management decisions. However, to adequately address these issues, increased science and increased data are necessary. I will limit my comments to the consensus statements that all eight Councils support. I've structured my statement around broad issues that have been identified.

For more detail on these issues, the Council Coordination Committee has developed a Working Paper to describe consensus positions and the range of Regional Fishery Management Council perspectives on key issues being considered as part of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) reauthorization process. This working paper can be found at: http://www.fisherycouncils.org/msa-reauthorization/.

Before I get to specific issues in the bills, let me present a number of basic tenets that the CCC has agreed upon and we believe are important to any reauthorization of the Magnuson-Stevens Act in order for the Councils to fulfill their responsibilities under the Act:

- Across the board mandates that address a problem in one region can negatively impact another. As a result, modifications to the Act should be national in scope with reasonable flexibility to address region-specific issues. Modifications to the Act which are specific to one region or one Council might undermine the national scope of the Act and should be carefully considered especially with respect to how these modifications might affect operations in other regions.
- Legislation that allows for flexibility in achieving conservation objectives, but is specific enough to avoid lengthy, complex implementing regulations or "guidelines" would facilitate Council's efforts to conserve and manage our nation's living marine resources.

  (Because of regional differences, legislation that identifies intended outcomes is easier for Councils to follow that prescriptive management or scientific parameters.
- Legislation that avoids unrealistic/expensive analytical mandates relative to implementing fishery management actions allows for a manageable Council process. (Analytical mandates relative to implementing fishery managements are sometimes unrealistic or expensive to adopt.)
- Legislation that imposes constraints can interfere with the flexibility of Councils and NMFS to respond to changing climates and shifting ecosystems. (Some constraints can limit the flexibility of Councils and NMFS to respond to changing climates and shifting ecosystems.)
- Avoid unfunded mandates, and/or ensure that Councils and NMFS have the resources to respond to provisions of legislation. (Mandates that are not supported by the necessary resources make it difficult for the Councils to implement them).
- The Councils are already pressed to meet the current requirements of the MSA and additional mandates will likely hinder existing activities.

- Preservation and enhancement of stock assessments and surveys should be among the highest priorities when considering any changes to the Act.

The two bills that reauthorize and amend the MSA, H.R. 4690, the "Sustaining America's Fisheries for the Future Act of 2021" and H.R. 59, the "Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act", have a number of areas of agreement: the need for more and better science for fishery managers; the need for better data collection—in particular for data poor stocks and recreational fisheries; the need for transparency in decision-making; an increased recognition of subsistence fishing; a change in definition for "overfished"; the need for Council coordination for shifting or transboundary stocks; the need for cooperative research; and the recognition that electronic monitoring presents opportunities for monitoring and enforcement.

Let me make a few general statements about H.R. 4690:

The CCC believes that some sections of H.R. 4690, as drafted, will increase the workload on the Councils and the agency, create demands for data and analyses that in many cases cannot be supported, could increase the risk of litigation on several important topics, appears to reduce the flexibility and the role of the Councils, and does not appear to authorize sufficient funding to meet its requirements.

H.R. 4690 proposes many new requirements that would be the responsibility of the Councils or NMFS. These include at least 25 periodic reports specific to fisheries management, additional elements that must be included in a fishery management plan, formal plans for managing stocks vulnerable to climate change, emergency operations plans, additional training to comply with revised ethics guidelines, etc. Each of these requirements increases the workload on an already saturated and stressed management system. Some must be accomplished within a short timeline. When added to the demanding pace of routine management actions and adjustments to fishery management plans (FMPs), the CCC is concerned that these new requirements will interfere with completing the routine, but critical, work necessary to keep fisheries operating. The objectives and potential benefits of many of these requirements (particularly the reports) are difficult to discern. In many cases, some of the proposed deadlines associated with these new requirements do not reflect the time it takes to complete Council actions in a thoughtful manner that provides for extensive public involvement.

The workload created by the new requirements is exacerbated by the fact that many cannot be supported by available data and analytic capabilities. For example, H.R. 4690 would require estimating maximum sustainable yield (MSY) under current and future conditions. In many of our fisheries, estimating MSY under current conditions is difficult or impossible, so it is not likely it could be done for future conditions, either. Where MSY can be estimated, doing so under possible future conditions would be a complex challenge. It is not clear how such information would be used to inform current management. Similarly, the bill would require Councils to identify as Habitat Areas of Particular Concern areas that ". . . are or may become important to the health of managed species" (*emphasis added*). This would require Councils to predict the future in a dynamic, highly variable system. These are just two of many examples of the bill placing unrealistic demands on the available scientific information.

Another possible impact of H.R. 4690 is that it may increase litigation risk with respect to minimizing adverse effects of fishing on habitat and minimizing bycatch. This bill would remove the current standard that minimization must be accomplished "to the extent practicable." This phrase currently provides Councils the ability to develop measures that take into account all of the National Standards. However, removal of "to the extent practicable." will create questions and uncertainty over what meets the standard of "minimize."

The CCC is concerned that the changes proposed in H.R. 4690 would divert limited resources from current needs unless there are increases in funding. In many regions, the basic surveys and monitoring programs, data and analyses, and frequency of stock assessments needed to meet the current requirements of the MSA are not available. The increased requirements of H.R. 4690 could only be met if additional resources are provided to the agency. The CCC notes that the administration's FY 2022 request for Fisheries Programs and Services, which is based on current requirements, exceeds the bill's proposed appropriations for 2022. It is unclear how the additional activities required by H.R. 4690 could be carried out without a substantial increase in funding.

Let me touch on a number of key issues that have been raised by one or both bills:

Climate Change & Regional Action Plans for Climate Science:

The CCC believes that climate change demands a response that is commensurate with the magnitude of the threat. The sustainability and performance of our fisheries are at stake, and while fishery managers are unable to address the underlying causes of climate change, they are nonetheless tasked with meeting our conservation and management mandates in a changing environment. Climate change will impact entire marine ecosystems, and a single-species management approach will likely not be sufficient to understand and account for these changes. Addressing climate change will require establishing the support to enable fishery managers to develop creative solutions to new challenges.

Fishery managers will also need a strong scientific foundation to support climate-ready fisheries management. Managing climate-ready fisheries is a long-term endeavor that will require investing in the information needed to support informed decision-making, along with a commensurate shift in resources and attention. Successful management already depends on the availability of timely and accurate information at all points in the decision-making process, and in a changing environment, this will become even more critical.

The ability of Councils to successfully manage fisheries in the face of climate change will require the ability to adapt to changing species distributions and productivity. However, many regions currently lack the robust baseline of fish and habitat surveys necessary to understand and quantify changes in abundance, distribution, diversity, and status clearly attributable to climate change, which will also make it more difficult to account for the impacts of climate change in analyses. It will also make it more difficult to comply with new legislative requirements, such as determining the impacts of climate change on future conditions of stocks and fishery participants. It will also be more difficult to account for the impacts of climate change in analyses. As the Councils continue to balance increasing competition for the ocean space—whether from protected areas, offshore energy development, or other users—these conflicts will inhibit the ability of fishermen and the Councils to be flexible.

Council Jurisdiction:

Regional Fishery Management Councils (RFMCs) are facing unprecedented management issues as a result of climate change. The changing environment is affecting the productivity, abundance, and distribution of some fish stocks, and it is becoming increasingly clear that all those involved in fisheries need to prepare for different, unpredictable futures. As stocks move, the RFMCs are grappling with how to adapt their management approaches to ensure fair and effective management of the stocks under their authority. Many regional Councils lack a robust baseline index of fish and habitat distribution, with rigorous temporal and spatial monitoring and surveys to assess the changes in abundance, diversity, and health to quantitatively attribute these fluctuations to climate change. Without this spatial survey data, the Council actions may result in overly precautionary harvest opportunities due to these uncertainties in assessment of climate impacts on stocks.

While a need to formalize a process for revising Council authority as a result of changes in fishery distribution may seem necessary, many of these issues are already addressed by the Councils themselves. This has been a particular area of focus on the Atlantic coast, where fisheries management authority in federal waters is divided between the New England, Mid-Atlantic, and South Atlantic Councils. These Councils have recognized this challenge and are working closely with each other to adapt to changing conditions. For example, the three East coast Councils are currently collaborating with the Atlantic States Marine Fisheries Commission and NOAA Fisheries on a climate change scenario planning initiative. Through this structured process, fishery scientists and managers are exploring how to best adapt and respond to jurisdictional and governance issues related to shifting fishery stocks.

A number of fishery management plans already account for overlap between Council management areas. For example, the New England Fishery Management Council and Mid-Atlantic Fishery Management Council manage two fisheries under joint fishery management plans and cooperate on the management of several other fisheries that overlap the geographic areas of both Councils. Similar arrangements exist between the Mid-Atlantic and South Atlantic Councils and the South Atlantic and Gulf Councils.

Frequent reassignments of management authority could cause disruptions in Council operations, duplications of effort, Science Center workload bottlenecks, and losses of institutional knowledge among the staff, Council and SSC members, and

others who have acquired specialized knowledge about the management or biology of a stock through years of involvement with the fishery. While major changes in management regimes may be warranted in certain cases, the CCC believes that less disruptive methods of adapting to climate change should be pursued first.

I note that in a recently released report by NOAA titled "Governance Case Studies on Marine Fisheries that Cross Jurisdictional Boundaries in the United States", the issue of transboundary fisheries management was studied. One of the conclusions reached was:

> "In conclusion, trans-boundary fisheries are not new and NMFS and the eight Councils have a strong record of managing such fisheries sustainably using existing authorities despite the scientific and governance complexities. The case studies presented here document multiple approaches for addressing cross-jurisdictional governance issues. There are a variety of ways to answer these governance questions, with pros and cons to the various approaches. Factors to consider include: the necessary time and resources, stakeholder interest, biological factors, and the need for coordination."

Essential Fish Habitat:

The CCC believes that Essential Fish Habitat (EFH) can be a useful tool for fishery management and provides protection for the habitat of Council-managed fisheries. However, changes to EFH that remove practicability standards, include arbitrary terms such as "adverse effects," and mandate Council inclusion on all consultations may be impractical. MSA's current use of "to the extent practicable" allows the Councils the flexibility to define EFH and HAPC as necessary. A requirement to define EFH and HAPC without that flexibility may result in broad definitions that have unintended consequences such as designation of harbors and marinas that may not be essential. Using terms such as "adverse effects" can have similar negative consequences without further guidance on what constitutes adverse effects. This may result in unnecessary mitigation requirement for fisheries. The Councils currently work with NMFS and are included on consultations as necessary but inclusion in all consultations would be a burden on the Council's time and resources and potentially delay the completion of the consultations.

Bycatch:

With very limited exceptions, all commercial and recreational fisheries in the U.S. have bycatch, which is defined by the MSA as "those fish which are harvested in a fishery, but which are not sold or kept for personal use", i.e., fish that are discarded. All recreational and commercial fisheries discard fish that are of not of the preferred species or size, or are required by regulation to be discarded.

National Standard 9 of the MSA requires that "conservation and management measures shall, to the extent practicable, (A) minimize bycatch and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch." The word "practicable" includes social and economic trade-offs in policy decision making regarding management measures to reduce bycatch. Without the practicability clause, the level of bycatch that could be considered to be minimized is very subjective with wide extremes, and thus open to litigation as to what is an acceptable level of bycatch. A practicability clause can be particularly important for minimizing bycatch in recreational fisheries, which are typically managed with size and bag limits, and as a result tend to have high rates of regulatory discard (i.e., bycatch). The RMC's think the inclusion of the phrase "to the extent practicable" provides the appropriate threshold for achieving the optimal degree of bycatch minimization.

The amount and type of bycatch in each fishery is monitored and assessed using a standardized bycatch methodology established within each region of the U.S. in compliance with 50 CFR 600.1600-1610 (82 FR 6317). The regulation requires that each Fishery Management Plan describe the standardized reporting methodology for each fishery, including procedures used to collect, record, and report bycatch data in a fishery. Consistent data collection, reporting, and assessment across fisheries is not possible given the differences between recreational and commercial fisheries, and the types of gear used in the fisheries. Additionally, data collection, reporting, and recording procedures can be expensive, logistically challenging to design and implement, involve new and cutting-edge technologies, and necessitate the consideration of the safety of human life at sea. Thus, flexibility is needed the implementation of a standardized bycatch reporting methodology for each fishery, as well as across fisheries and regions of the country.

Bycatch estimates for U.S. fisheries are compiled and reported and regularly updated in the NMFS National Bycatch Reports, which are publicly available on the

agency's website. While improvements are being made across the country to improve the accuracy and precision of these bycatch estimates, generating statistically accurate and precise information regarding bycatch in each fishery may be cost prohibitive in many fisheries, as it may require that all fish caught and discarded would need to be observed and monitored. Although many U.S. commercial fisheries have human observers or cameras on vessels to monitor and collect discard information, this would not be cost effective or technically feasible for small commercial fisheries or socially acceptable aboard recreational fishing boats.

Forage Fish:

The issue of increasing the protection of forage fish has been addressed in a number of bills including H.R. 4690 and H.R. 5770 the "Forage Fish Conservation Act of 2021". While the CCC has not been asked to provide feedback on H.R. 5770, a number of Councils were asked to comment on similar legislation that was introduced in the 116th Congress (H.R. 2236). In addition, the CCC Working Paper has a consensus statement on the management and protection of forage fish.

Forage Fish (consensus statement):

The Councils recognize that forage fish cannot be defined with a one-size-fits-all description or criteria. Species identified as forage fish by the Councils tend to be small species with short life spans and may have an important role in the marine ecosystem of the region. Some of these species may exhibit schooling behavior, highly variable stock sizes due to their short life spans, and sensitivity to environmental conditions. Some forage species may consume plankton, and some may be an important food source for marine mammals and seabirds. The term "forage fish" appears to imply a special importance of the species as prey, however nearly all fish species are prey to larger predators and thus all fish species provide energy transfer up the food chain.

Councils should have the authority to determine which species should be considered and managed as forage fish. Under existing MSA provisions, some Councils already recognize the importance of forage fish to the larger ecosystem functions and those species are regulated under the Council's FMPs where appropriate. The CCC is concerned that any legislative definition of forage fish, based on broad criteria—such as all low trophic level fish (plankton consumers) that contribute to the diets of upper tropic levels—will not include other important types of forage (e.g., squid), unintentionally include important target fish species (e.g., sockeye salmon), and allow for various interpretations by different interested parties and thus invite litigation.

Provisions that would require Councils to specify catch limits for forage fish species to account for the diet needs of marine mammals, birds, and other marine life would greatly impact the ability of Councils to fulfill their responsibilities under the MSA. Many predators are opportunistic feeders and shift their prey based on abundance and availability. As a result, determining the exact amount of individual prey needed each year would be an enormous undertaking, and would divert limited research monies away from other critical research such as surveys and stock assessments.

NOAA and the states do not currently have enough resources to survey target stocks, let alone prepare stocks assessments for forage species that would be needed to set scientifically based annual catch limits. In the absence of this critical information and necessary resources, catch limits would need to be restricted to account for this largely incalculable uncertainty. Prey needs for upper trophic predators are already accounted for as natural mortality removals in stock assessment models.

Councils should retain the authority to determine species requiring conservation and management through development of FMPs. Any legislation that directs the Secretary to prepare or amend fishery management plans (e.g., recent legislation to add shad and river herring as managed species) creates conflicts with current management under other existing authorities."

Transparency Requirements

The CCC thinks that a transparent public process is critical to maintaining public trust, so that decisions of the Council and the SSC are clearly documented. This need can be met in a variety of ways, such as by webcasting meetings, audio recording of meetings, or detailed minutes of meeting discussions. However, budget problems are very real, and written transcripts are costly. Video recordings of large meetings may not add substantive content, as they may not capture presentations and motions, which are the most critical visual aspects of meetings. While the technology for webcasts is rapidly evolving, live broadcasts generally require strong internet connections to be effective. In the context of Council meetings, which are often held in remote locations near fishing ports, the Councils have little ability to

predict or control the quality and cost of the internet connection. Consequently, requiring the use of webcasts "to the extent practicable" will allow Councils to achieve greater transparency within budget and operational constraints.

With respect to proposed requirements related to meeting recordings, the CCC notes that audio and video files are typically very large and that requiring all Council and SSC meeting recordings to be available indefinitely on Council websites would pose some technological challenges. Requiring the Councils to make meeting recordings available on the website for a limited period (e.g., 6 months after the date of recording) and thereafter upon request would be easier to implement. The CCC also notes that requiring both the Councils and the Secretary to maintain public archives of all meeting recordings seems like an unnecessary duplication of effort and resources.

The CCC believes that requiring roll call votes on all non-procedural matters is unnecessary and would be time consuming and disruptive to the Council process. The MSA already requires the Councils to hold roll call votes at the request of any voting Council member (a much lower threshold than the one fifth of a quorum required for roll call votes in the U.S. House or Senate). While the CCC does not believe that changes to voting requirements are warranted, the CCC notes that a less disruptive alternative would be to require roll call votes only on final approval of any fishery management plan or amendment to be submitted to the Secretary.

Ethics/Standards of Behavior:

Council staff are subject to Rules of Conduct established by the Department of Commerce. In addition, Councils expand on those requirements through their SOPPs and Operations Handbooks. Legislative initiatives to deem Council employees as Federal employees with respect to "any requirement that applies to federal employees", is a broad action with potential consequences reaching far beyond ethics to every facet of Council operations. Currently, Council employees are non-federal employees; thus, without access to all of the information available to federal employees and agencies, it is impossible for the Councils to anticipate the magnitude of impacts these changes would cascade throughout the current administrative and operations practices and procedures. Administrative costs may increase due to the need to monitor compliance with requirements and provide staff benefits and training. SOPPS will likely need to be updated and expanded. It will likely become difficult for Councils to hire and retain staff who are subject to all of the requirements of Federal employees when those staff do not also receive all of the benefits of Federal employees. The broad language in such proposals could be viewed as an effort to make staff Federal employees, which is counter to a basic tenet of the MSA and the federal fisheries management system.

Many Councils already have policies, regarding harassment in their Handbooks or SOPPs. To fully evaluate proposals to subject Councils to agency policies additional information is needed to clarify how the Secretary of Commerce will investigate allegations to determine if violations have occurred and impose the penalties if necessary. The SOC would need also make available to Council, Committee, and advisory panel members annual training that is consistent with the training provided to federal employees.

Councils currently adhere to 15 CFR Part 28, "New Restrictions on Lobbying" and are currently prohibited from use of federal funds for lobbying activities. Additional specifications for lobbying prohibitions, including prohibition from overturning any Presidential order, proclamation, or similar Presidential decree, are sometimes suggested. Because these existing regulations often lead to questions about the ability of Council and AP Members to communicate with officials when not in any official Council capacity and not using any Council funds, clarifying language will be required in guidelines supporting any regulatory changes indicating that Council members and advisors are not prohibited from communicating with elected and executive branch officials as private citizens not using federal funds.

New reporting requirements for documenting all discussions of Council members, Council staff, and members of Council advisory bodies with federal or state legislators and Federal executive branch officials will likely add costs and time burdens to Council staff, especially the requirements to document all verbal communication and maintain all copies of this documentation on the Council website. Specific guidance would be needed on the types of communication are allowed, what should be documented, and when information must be made available. Posting such documented requests to a Council's website may delay the response, and documenting verbal (in person or by phone) requests would be problematic to verify. Council members may be invited to speak directly with legislative staff or members of Congress while on other Council business, such as the annual CCC meeting in Washington D.C.; it is not clear if these types of interactions would be subject to

this provision. The term "routine fishery management" is vague and may not provide enough guidance to ensure Councils and their members comply with the intent of these provisions. For example, routine might be interpreted as anything covered in the MSA, or only implementing existing provisions of FMPs, excluding amendments intended to improve management; and "in the region" could be interpreted to preclude discussion of national or multi-region issues, which the CCC is charged with. Extending these provisions to NOAA GC would potentially violate attorney-client privilege; NOAA GC are the Councils' legal counsel, and conversations should not have to be made public. This would also remove the Councils as a resource for NOAA GC and Department of Justice attorneys in litigation.

Secretarial Plans:

The MSA currently authorizes the Secretary to prepare FMPs or amendments for stocks requiring conservation and management if the appropriate Council fails to do so in a reasonable period of time or if the Council fails to submit the necessary revisions after an FMP has been disapproved or partially approved. Proposals have been suggested to modify this language to specify that the Secretary must prepare such plans or amendments if the Councils do not submit the required FMPs or amendments "after a reasonable period of time not to exceed 180 days." (emphasis added)

The 180-day time frame suggested is unrealistic and likely could not be met while complying with the rigorous and time-consuming requirements of the MSA, the National Environmental Policy Act (NEPA), and other applicable laws (ESA, MMPA, etc.). It generally takes at least two years (but often longer) to develop and approve an FMP or major amendment. Most Councils meet 4–6 times per year, meaning that the proposed 180-day time frame may only encompass two Council meetings. This does not allow nearly enough time to initiate an amendment, conduct scoping, form plan teams (varies by region), collect and analyze data, develop and refine alternatives, solicit input from scientific and statistical committees or other advisory bodies, draft decision documents, conduct public hearings, review public comments, take final action, and prepare the required documents for submission to NMFS.

The MSA already provides the Secretary appropriate discretion to assess whether a Council is making reasonable progress toward development of the required FMP or amendment. This flexibility is necessary to account for the variability in time needed to complete a management action, which can vary greatly depending on the complexity of the issue, availability of scientific information, Council workload on competing priorities, and other factors. The CCC is concerned that creating deadlines the Councils likely cannot meet will shift responsibility for development of FMPs from the Councils to the Secretary, thus undermining the deliberative and transparent council process that was created by the MSA.

Any specific time requirements should be crafted carefully and should be based on a detailed understanding of the Councils' responsibilities and procedural requirements under the MSA, NEPA, and other applicable laws. Several Councils have developed fact sheets summarizing the process and timelines associated with development of an FMP or amendment.

Establishing a time requirement without taking steps to streamline the process is unlikely to produce meaningful change. If the intent is to improve the timeliness of Council actions, this could be accomplished by improving alignment between NEPA and the MSA. Compliance with NEPA requirements is often the most time-consuming aspect of FMP or amendment development. MSA Section 304(i), included as part of the 2007 Magnuson-Stevens Reauthorized Act, was intended to more closely align the requirements of the MSA and NEPA within NMFS's NEPA procedures. The resulting policy directive issued by NMFS on "National Environmental Policy Act Compliance for Council-initiated Fishery Management Actions under the Magnuson-Stevens Act," has not, in the opinion of the CCC, provided for a more timely alignment of MSA and NEPA processes, reduced extraneous paperwork, or streamlined the environmental review process. It has, however, shifted an increasing portion of the NEPA-related workload on to the Councils. The CCC's white paper on "Integrating National Environmental Policy Act Compliance into a Reauthorized Magnuson-Stevens Act"[2] explores this issue and discusses potential areas for improvement.

Overfished Definition:

The CCC believes that an alternative term could be useful for describing fisheries that are depleted as a result of non-fishing factors, unknown reasons, or a combination of fishing and other factors.

The current MSY-based definition can be problematic when applied to data-limited fisheries or mixed-stock complexes. Furthermore, the term "overfished" can

unfairly implicate fishermen for depleted conditions resulting from pollution, coastal development, offshore activities, natural ecosystem fluctuations, and other factors. Not all of the Councils agree that "depleted" is an appropriate term to replace "overfished" with. Some have noted that "depleted" has specific meanings in a number of other statutes, including the Endangered Species Act and the Marine Mammal Protection Act, and that care should be taken to avoid conflict or ambiguity if a change in terminology is implemented.

Rebuilding Requirements:

In general, the CCC believes the addition of measures that would increase flexibility with respect to stock rebuilding for certain types of fisheries would improve the ability of Councils to achieve management objectives.

We acknowledge that rebuilding often comes with necessary and unavoidable social and economic consequences, but we believe that targeted changes to the law would enable the development of rebuilding plans that more effectively address the biological imperative to rebuild overfished stocks while mitigating the social and economic impacts.

Under the rebuilding requirements currently in the Act, Councils determine the rebuilding schedule based on scientific information supplied by NMFS. Rebuilding time frames balance the biology of the fish and the economic needs of those involved in the fishery to rebuild the fishery within the time limits allowed in the Act. There is often considerable uncertainty involved in the calculation of the rebuilding time frame and, with changing ocean conditions occurring in some regions, rebuilding success can be even more uncertain. That is why the Act already requires that Councils assess rebuilding progress at regular intervals.

Requiring that a rebuilding plan meet an artificial goal (75 percent probability of success) if a rebuilding plan is not meeting the expected progress by the first assessment would almost certainly result in significant adverse impacts to fishermen and fishing communities. The experience of several Councils shows that this requirement could lead to closing fisheries, with severe impacts on communities. The suggested language would take away the flexibility that Councils currently have in balancing the need to rebuild overfished fisheries with the need to minimize the economic effects on fishing communities.

Often, changes to an assessment model can lead to an unexpected change in the understanding of stock status. Limiting a Council's ability to adapt to these changes because of a mandatory requirement would limit a Council's ability to modify the rebuilding program in light of the new information. As a result, fishermen and their communities would be penalized for improvements in science.

The CCC agrees that exceptions to rebuilding requirements should be limited in scope and carefully defined. Ideally, such exceptions would be codified in the MSA along with guidance regarding applicable circumstances in National Standard guidelines.

Stock Assessment and Survey Data:

Surveys and stock assessments provide the fundamental information necessary to successfully manage sustainable fisheries. As such, the CCC believes that it would be beneficial for the MSA to include a requirement for the Secretary to develop a comprehensive plan and schedule to address stock assessment needs on a national basis. Increasing stock assessment frequencies and improving stock assessment methods to reduce the uncertainty in setting harvest limits and achieving management objectives will also improve the ability of Councils to establish scientifically based ACLs, including for those fisheries that are currently considered data limited. However, the CCC is concerned that requiring the Secretary to complete a peer-reviewed stock survey and stock assessments for all FMP species within two years is unrealistic. Comprehensive stock surveys have not been done for coral reef and other areas because they would have been prohibitively expensive and would provide little benefit at great expense. While new emerging drone technology may reduce costs of some surveys, the CCC remains concerned about potential redistribution of survey and assessment resources from stocks with high commercial and recreational interest to those of lower concern. Should Congress insist on completion of these surveys, substantial increases in funding may be needed for this work.

In addition, there has been some discussion of establishing guidelines to facilitate incorporation of data from non-governmental sources in fishery management decisions. There are existing legal requirements that govern data collection and quality (e.g., Data Quality Act) that dictate what NMFS is required to use for stock assessments. Data from fishermen, the states, and universities are already considered and evaluated for inclusion in stock assessment, as appropriate for the methodology and use of the data collected. These data sources are reviewed by the assessment

analysts and through the peer review process that usually includes the Councils' scientific and statistical committees. The CCC believes prescriptive requirements for use of any data source are not appropriate. The implementing guidelines for when such information should be utilized will be critical to its veracity and usefulness to assessment authors and managers.

A cost comparison report on monitoring programs (for example, human observers versus electronic monitoring) would be extremely beneficial to development of such monitoring programs.

Recreational Data:

The CCC believes MRIP was not designed to provide data for in-season ACL management. The current MRIP methodology cannot be modified nor can sufficient funding be provided such that in-season ACL management will work. The CCC believes alternative methods (e.g., state electronic logbook programs, federal for-hire electronic logbook programs, and electronic logbook programs for private recreational anglers) should be fully implemented where they are available and developed, then evaluated where they do not yet exist. Once evaluated, MRIP should work to quickly certify these alternative methods for use in monitoring recreational catches.

There does not appear to be a plan for the systematic collection of the necessary biological data from recreational fisheries for use in stock assessments (size, age, and reproductive data). Stock assessment data would be greatly improved, as would the assessment results, if NMFS would immediately prepare a written plan for each region and coordinate across regions to address species as they move from one region to another due to changes in the environment. The CCC believes additional funding is required for successful implementation of such a data collection program.

The CCC believes more timely and accurate catch estimates that will be accepted by the recreational community (since they are providing the data) will go a long way to improve stock assessments, improve voluntary compliance, and improve accountability within the recreational fishing community.

Commercial Data:

The CCC believes that the management of commercial fisheries could be improved by streamlining the fishery monitoring and reporting process to produce more timely catch data. In most regions, commercial dealer data are not available as quickly as needed for quota tracking, and commercial logbook data from fishermen are not available as quickly as needed for verification of dealer data. In some areas, commercial fishermen cannot upload electronic logbook data or use E-logbook systems due to the lack of a federal system to receive the data. The lack of timely commercial data requires fishery managers to make projections about when an ACL will be met, which can results in closing a fishery too early or too late.

In most regions, there does not appear to be a plan for the systematic collection of the necessary biological data from commercial fisheries for use in stock assessments (size, age, and reproductive data). Stock assessment data would be greatly improved, as would the assessment results, if NMFS would immediately prepare a written plan for each region and coordinate across regions to address species as they move from one region to another due to changes in the environment. The CCC believes additional funding is required for successful implementation of such a data collection program.

Resources:

The CCC remains concerned that important policy directives issued by NMFS (e.g., allocation review, and ecosystem-based fisheries management) frequently do not take into consideration the need for additional staffing and resources that Councils may need to implement them. The demands on Councils to fulfill existing regulatory and management requirements are significant, and these should be met before any new mandates are required.

The CCC notes that baseline funding for research and management is necessary for sustainable fisheries management. At-sea surveys of fish populations are the 'bread and butter' of sustainable management that is the hallmark of U.S. fisheries under the MSA. Reducing stock assessment funds will reduce harvests by U.S. fishermen, which will increase imports of foreign seafood. Increasing stock assessment funding is the best investment an administration can make in U.S. fisheries.

LAPP Moratorium:

The CCC believes that Councils should maintain the maximum flexibility possible to develop effective management tools, including limited access privilege programs. Temporary moratorium is likely to increase the administrative burden for some Councils and may reduce the Councils' ability to implement the appropriate man-

agement program for their fisheries that could include modification of existing LAPP measures or new LAPP measures.

Limited access privilege programs are a management tool that should be available to the Councils, but the design, timing, and development should be left to individual Councils if they choose to use this tool for a specific fishery.

Exempted Fishing Permits:

The CCC believes that exempted fishing permits (EFPs) are an extremely important and useful mechanism to conduct scientific research. For example, EFPs have been used in different regions of the U.S. to conduct surveys, test monitoring devices under field conditions, investigate invasive species, and develop fishing gear that reduces bycatch and reduces impacts on habitat and protected species. These studies are frequently done by the fishing community at no cost to the public and have provided enormous benefits to the conservation and management of marine resources and habitats.

The CCC believes that the existing regulations already provide a good framework for developing regional processes for issuing and reviewing EFPs. The EFP applications undergo a regional scientific peer review and are evaluated through a public process by the respective regional Councils. The public and affected states have opportunities to comment to NMFS and the Councils during this process. Any new requirements for the EFP process, such as additional social and economic analysis or further consultation with the state governors, would greatly reduce the ability to get EFPs developed and approved in a timely manner.

In addition, the CCC believes that multi-year EFPs provide the necessary flexibility to scientifically test gear across different years and seasons. New regulations that limit EFPs to a 12-month period will restrict the type and quality of research that can be done, thus limiting the usefulness of the data collected.

Areas Beyond National Jurisdiction:

The Intergovernmental Conference on Marine Biodiversity of Areas Beyond National Jurisdiction (BBNJ Agreement) under the United Nations Convention on the Law of the Sea (UNCLOS) is currently being pursued as an independent and legally binding instrument that would address sustainable management of marine resources in Areas Beyond National Jurisdiction (ABNJ). The conservation approach of the BBNJ Agreement is to create area-based fishing closure zones within the ABNJ.

The CCC recognizes that a successful international fishery management platform already exists and is currently managing fishery resources in the ABNJ. Regional Fishery Management Organizations (RFMOs) are tasked to ensure sustainable management of fish resources within their designated convention areas. In contrast to the BBNJ Agreement where closed area-based management measures are only being discussed, RMFOs pursue sustainable fishing goals by considering a myriad of available management tools and choosing the one that addresses the specific management challenge. The BBNJ Agreement also is developed in a political process with the input from ENGOs where the RFMOs develop recommendation in a science-based process in a public, transparent process similar to the Councils. The CCC is concerned that the development of the convention such that high seas closures could be imposed, would override existing RFMO authority, and unfairly impact US fisheries under FMC management.

In general, the CCC believes the existing RFMO instrumentalities are wholly sufficient to manage living resources outside of national jurisdictions, of which the United States is a part. Furthermore, the CCC supports the RFMO platform and believes it should not be subjugated by the BBNJ though implementation of a redundant management program.

Based on past and long-term involvement of CCC members in various RFMOs, the CCC believes the BBNJ Agreement, as currently presented, will likely undermine the ability of RFMOs to properly manage the fisheries in their convention area, negatively affect RFMO credibility, and potentially create animosity among RFMO memberships with the UN.

The CCC believes that ultimate fishery management authority in the ABNJ should remain with the RFMO platform. The BBNJ program should be incorporated into the existing regulatory framework of the RFMOs and under no circumstances should the BBNJ become a legally binding instrument that would work in conjunction with the RFMOs.

I believe it important to acknowledge the supportive relationship between the Councils and the National Marine Fisheries Service. Our management successes would not be possible without our close partnership. The Service is a key participant in the Council process and a key provider of the information we need. The regional

offices and science centers are critical to our process. The healthy exchange of ideas and opinions between our groups leads to better solutions.

Finally, Mr. Chairman, as the effects of the recent COVID pandemic have shown us, the need to protect the Nation's food security is also an important factor to consider when making management decisions.

Thank you, Mr. Chairman for the opportunity to present the views of the Council Coordination Committee. I am happy to answer any questions.

QUESTIONS SUBMITTED FOR THE RECORD TO MR. MARC GORELNIK, CHAIR OF COUNCIL COORDINATION COMMITTEE AND CHAIR OF PACIFIC FISHERY MANAGEMENT COUNCIL

Mr. Gorelnik did not submit responses to the Committee by the appropriate deadline for inclusion in the printed record.

Questions Submitted by Representative Young

Question 1. On the topic of forage fish conservation, both H.R. 4690 and H.R. 5770 require the National Oceanic and Atmospheric Administration (NOAA) to specify the annual dietary needs of all marine mammals, birds, and other fishes, as well as account for all of this when setting fishery quotas. Based on what we have seen in Alaska regarding the Agency's inability to accurately assess the dietary needs of just one marine mammal Distinct Population Segment—the Western Steller sea lion—and with the Agency's survey days-at-sea generally reducing in number—I find it extremely hard to believe NOAA and the Councils will be able to accurately determine all of these dietary needs for all these species every single year and I fear we will be left with nothing but precautionary decisions that will reduce our commercial, charter, tribal, subsistence, and recreational fishing activities. In your opinion:

(a) How might our management system be impacted by such legislation if it were to pass?

(b) In the case of not being able to fulfill these scientific requirements, could an increase in lawsuits be a possible outcome?

(c) What will be the impacts of climate change on shifting stocks of forage species and how will this be accounted for if we do not even have the basic data to implement this provision?

(d) What are your thoughts about Alaska Pollock and sockeye salmon, which remain at low trophic levels and could easily be swept up in this ill-conceived but far-reaching legislation?

Questions Submitted by Representative González-Colón

Question 1. The Magnuson-Stevens Act (MSA) has worked quite well in the U.S. Caribbean—Puerto Rico and the U.S. Virgin Islands. The law has provided our regional council, the Caribbean Fishery Management Council, the necessary authorities, and flexibilities to sustainably manage our fisheries, while balancing both environmental and local economic needs.

However, our fisheries in the U.S. Caribbean are still considered "data poor," which creates challenges for stock assessments to determine overfishing limits, annual catch limits, and the status of local fisheries. The situation is further complicated when considering that our commercial fisheries in Puerto Rico are, for the most part, small-scale or traditional in nature. As such, they may lack the necessary tools and capacity to support these data requirements.

Based on my conversations with stakeholders, there is a clear need for dedicated funding to improve data collection systems for fisheries in Puerto Rico and the U.S. Virgin Islands, as well as for additional scientific research and studies to better inform management decisions in the U.S. Caribbean.

(a) As Congress considers legislation to reauthorize the Magnuson-Stevens Act, what additional resources or authorities would NOAA and our eight Regional Fishery Management Councils need to improve regional data collection systems and address long-standing fishery data gaps such as those in the U.S. Caribbean?

Question 2. In Puerto Rico most of our fisheries are small-scale in nature, involving fishing households, relatively small vessels, and subsistence or commercial fishing for local consumption. There is little to no export. However, they are still an

important component of our economy. In 2019, commercial fisheries landings in Puerto Rico totaled 1.6 million pounds and contributed $8.2 million to the economy.

Yet, when discussing the Magnuson-Stevens Act and policies to support our domestic fishing industries, I fear we sometimes tend to focus on larger commercial fishing operations and forget about the needs of our small-scale fishermen such as those in Puerto Rico. I therefore take this opportunity to respectfully urge NOAA to explore initiatives that would help address the unique needs of small-scale fisheries, including capability-building efforts that would improve data collection efforts and opportunities to enhance their economic well-being.

(a) What initiatives would you recommend we pursue in Congress to better support small-scale fisheries across the Nation, such as those in the U.S. Caribbean? How can Congress amend the Magnuson-Stevens Act to improve or facilitate such efforts?

(b) I would welcome any additional observations or recommendations the Council Coordination Committee may have to ensure the Magnuson-Stevens Act better reflects and responds to the needs of small-scale fisheries such as those in the U.S. Caribbean.

Question 3. A key component to the success of the Magnuson-Stevens Act has been it focus on a flexible, regional-based approach to govern our fisheries and fishing activities in Federal waters. A great example of this has been the Caribbean Fishery Management Council's recent move to island-based fishery management plans to better account and respond to environmental and local differences between Puerto Rico and the U.S. Virgin Islands, rather than treating the two territories as a single unit.

(a) Can you discuss the importance of ensuring any effort to reauthorize the Magnuson-Stevens Act maintains and continues to provide the Regional Councils the necessary flexibility to address region-specific needs?

(b) Could you also elaborate on some of the concerns you have with legislative proposals to establish strict deadlines for Councils to develop and submit Fishery Management Plans or amendments, such as a 180-day time frame? How would this negatively impact efforts to responsibility manage our fisheries? I note that the Caribbean Fishery Management Council's efforts to develop island-based fishery management plans took multiple years.

Mr. HUFFMAN. Thank you, Mr. Gorelnik.

We will now bring it back to the Members for questions. I will begin by recognizing Congressman Ed Case of Hawaii, who has just been a great partner in developing this legislation.

Mr. Case, you are recognized.

Mr. CASE. Thank you, Mr. Chair. I want to start off by associating myself fully with your remarks, as well as Mr. Young's and Mr. Westerman's, at the outset. The process of evaluating Magnuson-Stevens and developing this draft is one of the best I have ever seen. I think that it is one of the principal reasons why we are very cordially talking about issues that in other circumstances would be more difficult. And I am sure we are going to work this all out with the participation of everybody involved. So, thank you for that.

Ms. Coit, thank you for your testimony. And, first of all, Ms. Coit, just a few days ago, the Department of Commerce Inspector General's Office on November 10 released a report relating to the administration of the Western Pacific Regional Management Council's governance of the Western Pacific Sustainable Fisheries Fund.

And, Mr. Chair, I would ask unanimous consent that that report be entered into the record.

Mr. HUFFMAN. Without objection.

Mr. CASE. Thank you, Mr. Chair. Also, Honolulu's Civil Beat Media Outlet in my home state of Hawaii has published a very

extensive series and is still in the process of publishing a series relating to the Western Pacific Fisheries Management Council. The first article was November 3, and it continues, and I would like that, also, if I could ask unanimous consent to enter that into the record.

Mr. HUFFMAN. Without objection.

[The information follows:]

Submissions for the Record by Rep. Case

U.S. Department of Commerce, Office of Inspector General, Final Report #OIG-22-004-A dated November 10, 2021, Available at:

https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:14849178-e656-4a44-8536-8fab4fcc377e

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Honolulu's Civil Beat series on Western Pacific Fisheries Management Council, Available at:

https://www.civilbeat.org/projects/on-the-hook/
https://www.civilbeat.org/projects/reeling-it-in/

Mr. CASE. Thank you, Mr. Chair.

Ms. Coit, have you read the audit report?

Ms. COIT. Yes, sir.

Mr. CASE. First of all, the audit report essentially said in so many words that, of the money administered by the Western Pacific Fishery Management Council in the Sustainable Fisheries Fund for WESPAC, the part of the oceans that I come from, had been inadequate or worse. And, fundamentally, the funds that had been spent, which are Federal funds and overseen by the Federal Government, of the total amount of funds dating back to 2008, they could not evaluate the funds for years 2008 to 2015, as I recall, because the records for those funds were no longer required and had, in fact, been disposed. But, of the funds expended since 2015 to date, roughly 40 percent-plus were questionable in some way, shape, or form. So, my big picture question is—and it relates directly to this legislation because we are certainly trying to clean up and provide greater oversight—what is the Department doing about that audit report right now?

Ms. COIT. NOAA is committed to continuous improvement. And the audit report, as you mentioned, uncovered deficiencies which are deeply concerning to me. Yesterday, I met with Jeff Thomas, who is the head of NOAA's Acquisition and Grants Office (AGO), who is responsible for implementing the recommendations and overseeing the grants at NOAA. We talked about our concerns in regards to the questionable $1.2 million that was identified and various mechanisms, from training, to additional oversight, to some other ideas that he had for pre-approvals that would be implemented as part of following through.

So, I can assure you that I share your concerns that NOAA will follow through on the recommendations, and that you expect an

audit to uncover some deficiencies, but the extent and the percentage of grants that were deemed questionable for poor recordkeeping or other issues identified would certainly outline a concern.

Mr. CASE. With respect, and I appreciate you saying that because some have downplayed these audit results and said they were episodal, there was no big deal, just one or two this or thats about them. And when you get 40 percent-plus over a period of time, to me that is emblematic of one of two things, maybe both: (1) a failure to actually administer the funds in compliance with Federal law; and (2) a failure of oversight. So, this is not just about WESPAC; this is also about NOAA's oversight.

And I would ask you this question: Do you feel that you have the statutory authority to sufficiently oversee WESPAC and its expenditure of these funds, because this is our opportunity to tighten up your oversight if you feel that there is somehow something lacking in your oversight authorizations?

Ms. COIT. As I had mentioned, it is the NOAA Grants Division that is overseeing the grants that are given to the councils and has responsibility for following through on these recommendations. I would want to talk to them about whether that authority is sufficient.

I will tell you this: I want to do more trainings with all the councils because that audit report which you called for raised concerns. We know that people are obligated to follow the rules, but whether they are following the rules requires more oversight. But I would like to get back to you on that in terms of the authority.

Mr. CASE. Thank you very much. Thank you, Chair.

Mr. HUFFMAN. I thank the gentleman.

The Chair recognizes Ranking Member Westerman for 5 minutes.

Mr. WESTERMAN. Thank you, Chairman.

Mr. Gorelnik, you are representing the regional councils today. And the regional councils are the ones who would be responsible for implementing the bills before us if they are enacted, so it is very important to hear your perspective.

It seems to me that one of the reasons the Magnuson-Stevens Act has been so effective is that the regions have flexibility in meeting outcomes. And, as we all know, regions have differences. So, it is important for solutions to be resolved in the regions and not by Washington, DC.

Your testimony indicates that there are some concerns that the councils may have with Mr. Huffman's bill, and, namely, that it decreases the regional flexibility. Can you elaborate on that a little bit?

Mr. GORELNIK. Representative Westerman, thank you very much. I will try. I think it is important from the perspective of the councils that the guidance be provided in terms of outcomes as opposed to detailed descriptions of methods because fisheries are different, communities are different. That is why we have eight regional fishery management organizations and not one. And that is why the Act provides for regional management of the stocks and the impacts of the stocks.

I think that, for example, and there are more details in my written testimony, the deletion of the word "practicable" is of particular

concern because it would really eliminate the balancing that the National Standard Guidelines permit the councils to utilize.

There are other aspects of the legislation that are concerning having to do with timelines to enact fishery management plan changes and others. Whether it be a 90-day deadline or a 6-month deadline or whatever the deadlines are in the legislation, they are not practical for our organizations that meet a handful of times a year and sometimes with several months, typically, between meetings. And these changes often require a two- or three-meeting process, not to mention the work that goes into these changes ahead of time.

So, I think there are some valuable things in Representative Huffman's legislation, but I think that certain aspects of the process that are used now by the councils are working very well, and they don't need to be disturbed.

Mr. WESTERMAN. Yes, I think one of the things you alluded to was the 180-day requirement on fishery management plans or amendments. And I believe you said it takes as much as 2 years to do one of those now. But are you saying the process works now and has been successful and there is no reason to change that, or would there be room for maybe shortening it a little bit?

Mr. GORELNIK. Well, I only have practical experience with my own council, and I think that we work in the Pacific Council with all due deliberation, take into account the need to provide adequate time for public input and discussion. And I think we do things as rapidly as we can, given the science that is available and given the need for community input. If there are going to be time constraints, they certainly need to be not as tight as these; they just need to be realistic.

Mr. WESTERMAN. I appreciate your testimony. We have talked about Alaska. We have talked about the Gulf. But I want to yield the remaining time to Mr. Wittman, who also has important fisheries in his district.

Mr. WITTMAN. Thank you, Ranking Member, I appreciate your leadership.

Ms. Coit, let me go to you. I want you to expand a little bit on the change in wording in Mr. Huffman's bill that gets to the elimination of "to the current extent practicable." And that is a term used in the legislation that specifically accounts for differences between regions, between catch methods to make sure that when we are assessing things like bycatch, that it is something that is achievable. We all know there are different types a year. I worked as a commercial fisherman for years. My son has been a commercial fisherman for 17 years. I can tell you how incredibly different things are—gear changes, all those things.

When you remove that term, "to the extent practicable," then you allow no flexibility, you allow no consideration for gear changes for what happens in the real world. Give me your perspective on what you think that means for the law and for fishermen, both recreational and commercial, with the removal of that language in Mr. Huffman's bill.

Ms. COIT. As Mr. Gorelnik said, the regional differences are dramatic in some instances, and the changes related to climate change are dramatic in many instances. I think the opportunity for

councils to balance interest and to use their judgment has been one of the reasons that this statute has been successful. So, I think there is both the desire to reduce bycatch, which is something I share—and I think there isn't a fisherman I know that doesn't want to reduce discards—and then an intention to increase pressure to reduce bycatch. We made tremendous strides over the last 2 years, but there is a lot of history around "to the extent practicable," and I think many of the industry folks who have concerns about removing that have them for good reasons as we balance different interests. I guess I will stop there.

Mr. HUFFMAN. Yes, time has expired.

The Chair now recognizes Mr. Soto for 5 minutes.

Mr. SOTO. Thank you so much, Chairman.

I have the honor of representing Florida's 9th Congressional District, and fishing is really a way of life. Iconic fish like red snapper, grouper, mahi-mahi are really not only key, also billfish, sailfish; they are what is for dinner and for lunch, as well as a key part of recreation in our state. And we see two visions here, and I applaud the Chair for putting them both up. And there is definitely room for compromise among them.

My key priority and the key priority for Florida is sustainability; a balance between fish stocks that are healthy, recreation and commercial fishing. So, it would be great to first hear from Administrator Coit on sort of your vision, the pluses and minuses of both H.R. 59 and H.R. 4690 in light of the goals that I had just mentioned.

Ms. COIT. That is broad question. I will try to do it justice.

Mr. SOTO. You have plenty of time.

Ms. COIT. First, there are several provisions that are in both of the bills, and I think those things like changing the tenure, rebuilding time frame, including a definition of "subsistence fishing" are really positive and in both bills.

One of the things you mentioned that is in the Huffman-Case bill that I think is really important is just changing "overfish" to "depleted," because when you look at sustainability, it is not just overfishing, it is not just what you take that is relevant to biomass and stock status, there are a whole lot of other conditions. And then states like Florida, I know you have had many concerns about harmful algal blooms. Obviously, there are warming waters that have affected us quite a bit up in Rhode Island. So, I think looking at the totality of the ecosystem, which is the direction that the Huffman bill is going in, and looking at the multiple variables that could affect the health of fish and asking us to look at vulnerabilities related to climate change, and to take those into account when we are setting quotas. Because under Magnuson, you have really one lever, but there are a lot of other things that are going on in the ocean.

The Huffman-Case bill is a much longer bill that addresses many other issues from seafood marketing to coastal communities. They are hard to compare. And there are things in both bills that we like and things in both bills that we have some concerns in regard to the implementation.

Mr. SOTO. What are the concerns with regard to implementation?

Ms. COIT. For one thing, and I mentioned this in my opening statement, for instance, there are more than 20 additional reports. We have had some great dialogue already with the staff and would like to keep that up. We would like to look at mechanisms for informing you of what you need to know or what you want to know without having so many more new requirements.

Mr. SOTO. Well, Administrator Coit, I know this Committee has an aversion to more bureaucracy, so you may have some allies there in that. You mentioned the algal blooms and red tide is another aspect in all of that. How important is it for us to make sure we don't have withdrawals of nutrients or, in this case, an old phosphate stack that, basically, the dam broke and nutrients exploded into the Gulf? How critical are those inland threats to our fish stocks also?

Ms. COIT. I am not expert on or familiar enough to talk about that specific example, but certainly the additional nutrients combined with warmer waters have created more harmful algal blooms in many areas, low dissolved oxygen, and more fish kills. So, it is of concern in terms of the health of our marine species.

Mr. SOTO. Sure, and I agree. And lastly, while red tide is naturally occurring, when nutrients hit it, it explodes. And then I am really concerned about making sure there is enough bandwidth here for recreational fishing. And sometimes it seems like we see a huge amount of commercial fishing, but recreational fishing, which is key for our quality of life in Florida and for tourism, gets left out. How important is it for these bills to protect recreational fishing?

Ms. COIT. Recreational fishing is, of course, a huge part of the economy in Florida and in the Gulf and really in all coastal states. So, I think it is critically important to also protect the sustainability and the opportunity for recreational fishing in America. And I happened to be able to go to ICAST in Orlando this summer, which was a wonderful event and was actually with Marc Gorelnik there. But the amount of economic activity around recreational fishing is just so important and growing. So, yes, this statute is intended to ensure sustainability and promote recreational fishing as well.

Mr. SOTO. Thanks, Administrator Coit. I appreciate you supporting central Florida tourism.

Mr. HUFFMAN. The Chair recognizes Mr. Young for 5 minutes.

Mr. YOUNG. Thank you, Mr. Chairman.

Ms. Coit, do you believe the MSA has been the envy of the world as far as managing fish, or any area you know of does a better job than we do?

Ms. COIT. First, let me also acknowledge your seminal role in the original Act, and I am sure you are proud of it. Yes, I think it is—I don't know if it is the envy of world, but I think it is known far and wide as being responsible for the sustainable management and the rebuilding of fish stocks in the United States.

Mr. YOUNG. The second thing that concerns me is, actually I have done the original Act, and what I am worried about in the one that Mr. Huffman is proposing under H.R. 4690 is the additional lawsuits. NOAA had a hundred lawsuits recently by mischievous lawyers.

Mr. HUFFMAN. Oh, there is the word.

Mr. YOUNG. And I want to write it—whatever we do, we have to write it somehow that we get the job done for sustainable yield of the species for the benefit of the communities also along that line for the sustainable. But lawsuits don't do anything but spend money. Is there any way we can write these things so that they don't additionally add lawyers to lawsuits? Are you a lawyer?

Ms. COIT. I am a lawyer.

Mr. YOUNG. Oh, boy. I lost that battle real quick. But you follow what I am saying, what happens is the——

Mr. HUFFMAN. I object.

Mr. YOUNG [continuing]. Can sue, and then it hurts the original intent of the Act.

Ms. COIT. Those of you on the dais know more about how the statutes you enact result in lawsuits that challenge them to further define their provisions than I do, I am sure. I won't disagree with you that a lot of money is spent on litigation that I wish we could be putting toward conservation and research and sustainability, but I don't think there is a way to prevent that under our system.

Mr. YOUNG. Well, all I can add, Mr. Chairman, is there is a wait. Because a lot of times these lawsuits are filed, the settlement is made by an agency. The money goes to those people, not to benefit the resource which we are trying to protect. We ought to be able to fix that.

The one thing, Mr. Chairman and Ms. Coit, I will tell you, I have heard you mention the term "climate change." I advise everybody, yes, climate is changing. But there is no magic switch that turns the light on and off. And you have the human factor involved in these fisheries and the communities. And people that are sitting here that have never caught a fish in their life, now they have been eating this nice little chum salmon out of the Kuskokwim River given by Ms. Peltola. I hope you enjoyed it. But we have to take that into consideration. We have to understand that this sounds good, looks good, but it also has the human factor and the effect upon them. And I hope we can do this bill. I know you are high on climate change. OK. I will admit it. It is the first time I have ever admitted it to anybody but you. But I am not confident that we are not taking into consideration other factors. And if we do anything in this bill about climate change, that has to be considered.

With that, Mr. Chairman, I yield back.

Mr. HUFFMAN. I thank the Ranking Member.

And I will now recognize myself. Do we have votes pending at this point?

STAFF. You can keep going until 3, I think.

Mr. HUFFMAN. So, we are going to go a little further, and then we are going to recess. And I apologize to everyone, this could be a fairly long vote series, but we will back and finish up. And I apologize in advance for the inconvenience.

But, Ms. Coit, let me thank you. Let me also thank Mr. Gorelnik. The comments and feedback that we have gotten from NMFS and the Council Coordination Committee are valuable. This legislation remains a work in progress. We are going to keep trying to improve it, and even the discussion that we are hearing about this

language, "to the extent practicable." I understand the concerns that some have expressed on removing that qualifier from the bycatch provision.

But I also note that all the words matter, and the law doesn't say there can be no bycatch; it says "minimize bycatch." So, there is already a fairly broad term that makes it clear that we are not going to end bycatch. It is not going to be a moratorium on entire fisheries if you find bycatch.

So, the real question is, what do you do about how that additional qualifier, "to the extent practicable," that is fairly open-ended, has allowed bycatch to continue in some cases in some pretty disturbing ways? And I was discussing offline with Ranking Member Young how in some places, the North Pacific, bycatch is not getting better, it is getting worse, to the point where subsistence fishers and smaller fishers are being pushed out of their own fisheries because of bycatch from an industry that is not even targeting salmon, halibut, crab, in some cases.

So, let me ask you, Ms. Coit, if you agree with what I just said that whatever concerns there may be about taking away "to the extent practicable," there probably ought to be a lot of concern about the trend that we have in some fisheries of bycatch not getting better?

Ms. COIT. I think the short answer is I agree with what you said.

Mr. HUFFMAN. OK. I appreciate that.

Let's talk about climate. Obviously, one of the biggest significant proposals in the legislation Mr. Case and I are proposing is climate change in fisheries management. And one of the concerns that the councils have expressed is that it is not that we don't need to do this, understandably, they are concerned about workload. So, I want to ask if there are ways in which NMFS could step up and relieve some of the management burden from helping councils incorporate climate into the management of marine fisheries?

Ms. COIT. I am not sure if we can relieve the management burden so much as I think our duty is to provide better information. The President's budget asked for $70 million for additional funding. The stock surveys and the assessments, they are the backbone of fisheries management. And I have confidence that councils, they are already, the Pacific Council, as you know, has already finished some scenario planning. The North Pacific is then taking on some really difficult issues and using a precautionary principle. On the Atlantic, there is scenario planning to look at governance in management options.

So, I feel that what we need to do at NMFS is provide more and better data and science so we can understand better the changes in the ecosystem and that the councils have information in order to take an ecosystem-based approach and have not only some information about what is happening now but some predictive information so that their management and the investments that the industry makes can be sure to be sustainable.

Mr. HUFFMAN. I appreciate that. I believe later we are going to hear some testimony suggesting that we shouldn't use stock assessments anymore because they use catch data. And I know that is a fairly provocative proposal that causes some concerns. Let me ask

you, how would we manage fisheries without including how much we are catching in our assessment of the health of those fisheries?

Ms. COIT. From my perspective and the perspective of NOAA, we have to include the catch data. That is part of the full picture. And, in some data poor places, it may be the primary data point that we have. So, it is part of the totality.

Mr. HUFFMAN. We were talking just a moment ago about bycatch. So, just to follow up on that a little bit more, this is not just an issue of conserving marine life; there are heavy impacts on subsistence fishers who rely on species that are often not targeted by commercial fisherman but end up being killed in huge numbers in some cases anyway.

So, could you explain a little bit how that is occurring and tell us how reducing bycatch is actually an environmental justice issue?

Ms. COIT. You mentioned, when you were talking about bycatch earlier, things like salmon and halibut in Alaska. And, again, I think these are exacerbated by climate change, and that doesn't mean we are leaving the human dimension out; it is just the way it is. So, when you see the overall abundance of a fish like halibut go down, despite the fact that we have reduced bycatch quite a bit in the commercial fishing industry, you have put a further strain on the overall stock, and that, therefore, reduces what is available for the Indigenous people who are depending on halibut or depending on salmon. I think the use conflicts are exacerbated when those stocks are stressed due to climate change, or their abundance is going down, and that creates a real equity issue.

Mr. HUFFMAN. I appreciate that. My time has expired, but I will ask unanimous consent to enter into the record a memorandum from Accountable U.S. that shows that pollock trollers, including Trident's, are far exceeding their bycatch limits of salmon and halibut, leaving small fishers and Alaskan Native fishing communities struggling to catch fish.

Without objection, that is entered into the record.

[The information follows:]

Submission for the Record by Rep. Huffman

Pollock Trawlers – Who Are Expected To Oppose The Basic Equity And Conservation Improvements In H.R. 4690 - Are Threatening Food Security In Native Alaskan Communities

SUMMARY: Pollock factory trawlers operated by big commercial fishing companies like Trident and American Seafoods – and represented by lobbying organizations like the At-Sea Processors Association – are catching the salmon and halibut that Alaska Native fishing communities require for cultural and nutritional sustenance.

In 2021 so far, the At-Sea Processors Association's members* have harvested/caught nearly 160,000 salmon as bycatch, leaving less and less for communities that rely on and directly target salmon. Halibut, sablefish, crabs, and numerous other species are also caught and subsequently discarded, with broad ramifications on those stocks and ocean ecosystems.

Despite the consequences of these practices, this bycatch is legal because the trawler industry has captured its regulatory body, the North Pacific Fishery Management Council (NPFMC). Despite urgent calls for help from salmon and other fishermen, the federal fishery management has failed to take any meaningful action to address the damaging practices of the trawler fleet.

In October, NPFMC rejected proposals to reduce bycatch or even to add more native voices to its panel, and instead voted to authorize a study one council member characterized as "redundant." By maintaining the status quo, NPFMC 's actions benefit commercial seafood giants like Trident at the expense of fishery sustainability, Alaska Native fishing communities, and small salmon, crab, and halibut fishers.

** This figure includes all At-Sea Processors Association member vessels except for the Northern Hawk, the vessel operated by the Coastal Villages Regional Fund (CVRF). CVRF is set up by federal statute through the Community Development Quota (CDQ) program to allow Alaska Native communities on the Bering Sea shore a chance to participate in modern commercial fishing. Bycatch from its vessel Northern Hawk is not included in total figures in this document.*

Bycatch From Big Commercial Trawlers Hurts A Variety Of Other Actors In The North Pacific, Including Native Communities And Smaller Commercial Fishers.

Big Trawler Vessels Harvest An Outsized Share Of Salmon, Drawing Complaints From Subsistence Fishers, Smaller Commercial Fishers, And Conservationists

Big Commercial Trawlers Harvest A Substantial Portion Of The Allowable Salmon Quota. "Alaska's commercial fishermen have been speaking out against big trawlers for years, complaining that the large vessels in federal waters are scooping up mature and juvenile fish. […] Federal fisheries data shows trawlers in the North Pacific took about a tenth of the chinook — or king salmon — caught by Alaska's commercial salmon fleet last year. And those numbers are tracking the same this year. But none of that catch happens on purpose." [KTOO, 04/22/21]

- **Small Commercial Fishers And Subsistence Fishers Want To Reduce The Amount Of Bycatch Trawlers Can Harvest.** "Commercial fishermen and others from throughout Alaska are calling for a sea change in Alaska's fisheries management. Today, fishermen delivered a letter signed by over 300 Alaskans to Alaska Governor Mike Dunleavy and his administration, asking the governor to address the crisis facing Alaska's Chinook salmon by advocating for a much lower bycatch allowance in the off-shore federally managed trawl fisheries." [Alaska Sporting Journal, 10/07/21]

Trawlers Are Exceeding Their Bycatch Limits Without Repercussions, Hurting Fishers Who Target A Range Of Seafoods, Including Crab, Halibut And Sablefish. "It isn't just halibut fishermen who are furious. Last year, trawlers caught more than half a million tanner crab as bycatch in a region where, this year, crab fishermen were prohibited from setting pots because of low population numbers. And over the past two years, longliners who target sablefish—a high-value species with rich, oily flesh—**watched as Bering Sea trawlers caught three and then five times their allowable limit of this species without facing fines or other repercussions**." [National Geographic, 04/08/21]

As Of November 1, 2021, At-Sea Processors Association Members Have Already Harvested Nearly 160,000 Salmon As Bycatch In 2021; Simultaneously, The U.S. Department of the Interior Has Noted A Loss Of 190,000 Salmon To Yukon Households

Through November 1, 2021, At-Sea Processor Vessels Have Caught Over 6,000 Chinook Salmon In Trawl Fisheries This Year, As Well As 153,000 Non-Chinook

Bering Sea and Aleutian Island And Gulf Of Alaska Chinook/Non-Chinook Salmon Bycatch Totals From At-Sea Processors Association Member Vessels 01/01/21 - 11/01/21

Vessel Name:	# Chinook Caught As Bycatch	# Non-Chinook Caught As Bycatch	# Of Hauls Sampled
Alaska Ocean	840	2,320	660
American Dynasty	650	3,696	487
American Triumph	687	19,790	483
Arctic Fjord	340	11,003	439
Arctic Storm	441	19,783	408
Island Enterprise	144	2,803	301
Kodiak Enterprise	118	23,206	269
Majesty	0	15	120

Marcy J	71	1	24
Northern Eagle	578	11,018	412
Northern Glacier	113	43	625
Northern Hawk*	385	9,043	406
Northern Jaeger	435	12,894	405
Ocean Rover	563	21,692	473
Seattle Enterprise	332	11,653	361
Starbound	371	4,740	436
Total:	**6,068**	**153,700**	**6,632**

= Glacier Fish Co. = American Seafoods = Arctic Storm = Trident = Coastal Villages

= Aleutian Spray

[NOAA.gov, Accessed 11/01/21]

Salmon Bycatch Totals For Each Member Company Of At-Sea Processors Association & Percentage Of Total 2021 Alaskan Salmon Bycatch In The Bering Strait / Aleutian Island And Gulf Of Alaska Trawl Fisheries

Company:	**# Chinook Caught As Bycatch:**	**# Non-Chinook Caught As Bycatch:**	**% Of Total 2021 Chinook Bycatch From The BSAI/GOA**	**% Of Total 2021 Non-Chinook Bycatch From The BSAI/GOA**
Aleutian Spray (Starbound LLC)	371	4,740	2.2%	3.3%
American Seafoods Company	2,913	69,090	**32.7%**	**26.2%**
Arctic Storm Management Group, LLC	781	30,786	**14.6%**	7.0%
Coastal Villages *	385	9,043	4.2%	3.5%
Glacier Fish Company, LLC	953	2,363	1.1%	8.6%
Trident Seafoods	665	37,678	**17.8%**	6.0%
All At-Sea Processors Association Members Combined	6,068	153,700	**72.7%**	**54.6%**

Total 2021 Chinook/Non-Chinook Bycatch From The BSAI/GOA	11,119	211,323	X	X

[NOAA.gov, Accessed 11/01/21]

**The Coastal Villages Regional Fund is set up through the Community Development Quota (CDQ) program to allow communities on the Bering Sea shore a chance to participate in modern commercial fishing. Bycatch from its vessel Northern Hawk is not included in total figures in this document.*

In A September 2021 Report, The U.S. Department of the Interior Noted A Loss Of 190,000 Salmon To Yukon Households

USFWS Report To North Pacific Fishery Management Council: "It Is Likely That Yukon Households Will Report Record Low Harvests For Salmon. This Represents The Potential Loss Of Over 190,000 Salmon... To Yukon River Families." "Subsistence harvest estimates will not be available until after household surveys are completed and results finalized, typically in December. While there may be some incidental harvest of salmon from 4-inch and smaller mesh gear, it is likely that Yukon households will report record low harvests for salmon. This represents the potential loss of over 190,000 salmon (based on historical harvest averages of Chinook and Chum combined) to Yukon River families. Despite salmon fishing closures, run sizes were so low that escapement goals throughout the drainage for Chinook and Chum salmon will likely not be met. While preseason forecasts accurately predicted the resulting run size for Chinook salmon, the Chum and Coho outlooks did not indicate the very poor runs that occurred, despite very poor fall Chum runs in 2020." [Meetings.npfmc.org, 09/15/21]

- **Indigenous Subsistence Farmers Say That The Collapse Of The Salmon Population Is Causing Physical, Mental, Emotional, And Spiritual Hardship To Their Communities.** "The shortfall in salmon this year hit fishing communities hard, particularly among subsistence fishermen. Amos T. Philemenoff, Sr., president of the Aleut Community of St. Paul Island, wrote to the board that the salmon shortages in the Arctic-Yukon-Kuskokwim region this year have impacted the island's subsistence traditions. Donations of salmon from commercial harvesters to replace the lost food do not replace the traditions, he said. 'Our communities have experienced physical, mental, emotional, and spiritual hardship due to the impacts of over-harvest and mismanagement that characterize these Alaska fisheries,' he wrote. 'The burden of conservation has fallen on Indigenous (e.g., subsistence) users who are not part of the salmon population collapse.'" [Alaska Journal of Commerce, 10/12/21]

The At-Sea Processors Association And Other Industry Groups Have Resisted Calls To Limit Bycatch

The At-Sea Processors Association Argued That "No Fishery Is Without Bycatch And... That A Moratorium On Salmon Bycatch In The Bering Sea Would Mean A Total Shutdown Of The Pollock Fishery." "The At-Sea Processors Association — a large industrial trawl organization — said in an emailed statement that no fishery is without bycatch and that's always other species in the nets or caught on a line. The group argued that a moratorium on salmon bycatch in the Bering Sea would mean a total shutdown of the pollock fishery." [Alaskapublic.org, 10/14/21]

At-Sea Processors Member Trident Seafoods And The Pollock Industry In Alaska Have Routinely Contributed To The Bycatch Problem, Catching Thousands Of Pounds Of Bycatch While Local Communities Struggle To Stay Afloat.

Trident Seafoods Has Been Caught In Multiple Bycatch Scandals, Including Illegally Buying Bycatch Octopus And Taking In Thousands Of Pounds Of Halibut Bycatch.

Trident Was Fined For "Knowingly Buying Illegal Fish" In 2014

Trident Faced Charges For Knowingly Buying Illegal Fish From Fisherman With Too Much Octopus Bycatch In 2014. "Trident Seafoods Corporation and two fishermen face multiple charges apiece for various alleged fishing violations in fall 2014... Trident Seafoods faces six unlawful purchase charges for allegedly knowing that the Viking Star was fishing illegally and buying product from the vessel anyway. The charging documents allege that Olsen's permit was used on six fish tickets between Oct. 2, 2014, and Nov. 3, 2014, but Hanohano signed them although no emergency transfer or authorization allowing Hanohano to use Olsen's permit had occurred... The documents also say that one of the tickets dated Oct. 21, 2014, allegedly showed 5,533 pounds of octopus, 694 more than what was allowed. The state of Alaska alleges that Trident Seafoods bought the product from those six tickets despite knowing that Olsen's permit was being used by Hanohano. Olsen, Hanohano and Trident Seafoods all have change of plea and sentencing scheduled for Feb. 4, according to online court records." [Kodiak Daily Mirror, 01/22/16]

Trident Pleaded No Contest And Was Fined For Single Count Of Unlawful Purchase Of Fish. "All but one of the dozens of charges against Trident Seafoods and two fishermen were dismissed when the case was resolved earlier this month, according to court documents. According to a court log from a change of plea proceeding on Feb. 4, Trident pleaded no contest to a single count of unlawful purchase of fish and was fined $3,000 with the remaining five charges against them dismissed. The single count was reduced to a violation. Restitution in the case had already been paid, according to the notes." [Kodiak Daily Mirror, 02/17/16]

Trident Drew Heavy Criticism After Video Showed A Trident Facility Taking In Thousands Of Pounds Of Halibut Bycatch.

Social Media Post Showed Thousands Of Pounds Of Halibut Bycatch At Trident Facility In Kodiak. "Longtime fisherman Erik Velsko says if Trident really cares about halibut and sustainability some things need to change. Velsko recently called out Trident on Facebook posting photos and video of excessive halibut bycatch at the plant that appeared to be from the local trawl fishery and which was going to be turned into fishmeal. 'Totes full of halibut and you know obviously they had some markings and looked a little damaged. They were not gutted or dressed, as we call 'em, longline – so the only place they could have come off of was a trawl vessel,' Velsko said." [Alaskapublic.org, 06/06/18]

- **Fisherman Alleged There Were 15 Totes, Carrying 1,000 Pounds Of Bycatch At Trident Facility.** "In all, Velsko alleges there were around 15 totes, each containing about one thousand pounds of fish. The images were taken in fall 2017, when a fellow fisherman captured them but wanted to remain anonymous, so Velsko posted the images to his Facebook page this May with a paragraph alleging wastefulness." [Alaskapublic.org, 06/06/18]

- **Fisherman Who Posted Bycatch Video Claimed That "What Is Happening With Halibut At The Trident Plant In Kodiak Is Legal, But Immoral And Wasteful."** "Velsko, the fisherman who posted the video, says he believes what is happening with halibut at the Trident plant in Kodiak is legal, but immoral and wasteful, and it was especially upsetting to him in light of recent restrictions on the halibut fishery due to conservation concerns." [Alaskapublic.org, 06/06/18]

Trident Manager Called The Photos "Disheartening To Say The Least," But Claimed They Are Taken Out Of Context. The Trident plant manager also saw Velsko's post. 'I did see the photos, yes,' Lumsden said. 'And that was alarming to me. It was disheartening to say the least.' But Lumsden says the images were taken out of context. 'The frustrating thing is when you see a 30-second video like that and you don't know the background,' Lumsden said. 'When that video shows a full tote, a thousand pounds of fish being dumped into a truck [it] gives a false representation like there is just tote after tote after tote after tote and that is simply not the case.'" [Alaskapublic.org, 06/06/18]

NPFMC Took No Action To Limit Salmon Bycatch At Its October 2021 Meeting Despite Desperate Need From Alaska Native Villages

Alaska Native Leaders Wrote That The NPFMC's "Failure To Eliminate The Pollock Trawl Fleet's Salmon Bycatch Considerably In 2022 Disappoints Us As It Proves Industrial Fishing Is Favored Over Our Subsistence Ways Of Life." "While the Council committed to some longer-term action, they did not heed our call to recognize that subsistence fishing families in western Alaska deserve to harvest the fish we have

been catching, cutting, and sharing for at least 12,000 years. Their failure to eliminate the pollock trawl fleet's salmon bycatch considerably in 2022 disappoints us as it proves industrial fishing is favored over our subsistence ways of life." [Anchorage Daily News, 10/30/21]

Fisheries Managers Are Perceived As Being Too Cozy With The Trawler Industry

Non-Trawler Fishermen Are Suspicious Of What They See As A Cozy Relationship Between Fisheries Managers And The Trawl Industry As Numerous State And Federal Fisheries Professionals Are Recruited To Jobs In The Industry." "At meetings of the North Pacific Fishery Management Council, which sets the bycatch limits, longliners with decades on the water but no formal training find themselves up against highly educated, well-prepared trawl industry representatives. 'Half of them haven't even been on a boat,' Velsko says. Fishermen are likewise suspicious of what they see as a cozy relationship between fisheries managers and the trawl industry as numerous state and federal fisheries professionals are recruited to jobs in the industry." [National Geographic, 04/08/21]

The Top Fisheries Administrator In The Trump Administration Now Works For Pollock Trawler Corporation American Seafoods. "A former top administrator for the National Oceanic and Atmospheric Administration (NOAA), Chris Oliver has been added to the American Seafoods regulatory division as Special Advisor on Government Affairs." [American Seafoods, 06/07/21]

Earlier This Month (November 2021) The NPFMC Struck Language To Add More Tribal Representation To The Council.

The NPFMC Mentioned The Equity Concern Over Bycatch With Allowing The Pollock Fleet To Continue Fishing. "Rationale in Opposition to Amendment 1: There is an equity concern when in-river salmon users are unable to successfully harvest while the BSAI pollock fleet is able to continue its fishing practices." [Meetings.npfmc.org, Accessed 11/03/21]

- **The NPFMC Advisory Panel Eliminated The Language From The Proposal To "Add 2 Voting Tribal Seats, Appointed By The Tribes, To The NPFMC Table." "**4) Ensure Alaska Native Tribes have a seat at the decision-making table ~~a.~~ 3 ~~Support adding 2 voting Tribal seats, appointed by the Tribes, to the NPFMC table.~~ b. Ensure Alaska Native Tribal representation on all Council bodies, including the AP, SSC and plan teams... *Amendment 3 passed 15-3.*" [Meetings.npfmc.org, Accessed 11/03/21]

Alaska Native Leaders Have Criticized NPFMC For Inadequate Tribal Representation.

Alaska Native Leaders Say They Have "No Vote" In NPFMC's Processes And That Council Inaction Makes It Clear They Need Voting Seats. "Furthermore, the State of Alaska has a majority on the Council, and the ability to make decisions that are in the

best interest of the state and our people. The decisions of the state through the Council directly impact our lives as fishermen, yet our 229 federally recognized tribes have no vote in its processes. The Council's (in)actions make it abundantly clear that change is needed to the laws governing our federal fisheries, especially the Magnuson-Stevens Act. Rep. Huffman (D-CA) has introduced a bill to reauthorize the MSA which includes two voting tribal seats and strengthens the requirement to reduce bycatch. The time is long overdue for tribes to have seats at the decision-making table, as they do in the parallel Council in the Pacific Northwest." [Anchorage Daily News, 10/30/21]

NPFMC Went So Far As To Write A Letter Opposing New Legislation That Would Address The Problem Of Trawler Bycatch

NPFMC **Submitted A Response To Jared Huffman's "Sustaining America's Fisheries For The Future Act Of 2021," Where They Expressed Concern Over The Gravity Of The Bycatch Language Of The Text.** "Inclusion of the phrase 'to the extent practicable' provides some threshold for achieving bycatch minimization, which is necessarily to be balanced with other national standards. By eliminating (Congressmen Huffman and Case September 30, 2021 Page 12 12) the practicability clause, the proposed bill creates a major policy change for just one fishery management component (bycatch), which could create uncertainty for the Council when considering and balancing the existing national standards" [Meetings.npfmc.org, 09/30/21]

Mr. HUFFMAN. And it is now, unfortunately, time where we have to go to the Floor to vote. We will recess subject to call of the Chair, and we will get back as soon as we can.

So, this panel is thanked and relieved, and we will get back to the next—oh, we have more Member questions. I am so sorry. All right. We were going to continue with this panel, and we will do that as quickly as we can.

[Recess.]

Mr. HUFFMAN. Thanks so much for your patience. The Committee is now back in session, and we will resume questioning of the second panel.

I recognize Congresswoman González-Colón for 5 minutes.

Miss GONZÁLEZ-COLÓN. Thank you, Mr. Chairman, and thank you to the witnesses that are here and the ones that are online.

I want to say that, in Puerto Rico, most of our fisheries are small scale in nature, and involve fishing households, relatively small vessels, and commercial fishing for local consumption. There is little or nothing to export.

However, they are still an important part and component of our economy. In 2019, commercial fisheries landing in Puerto Rico got a total of 1.6 million pounds and contributed with $8.2 million to our economy.

Yet, when discussing the Magnuson-Stevens Act and policies to support our domestic fishing industries, I fear we sometimes tend to focus on larger commercial fishing operations and forget about the needs of our small-scale fishermen, such as those in Puerto Rico. Therefore, I take this opportunity to respectfully urge NOAA to explore initiatives that will help address this uniqueness of small-scale fisheries. And I am talking about Puerto Rico, U.S.

Virgin Islands, and including the capabilities building efforts that will improve data collection. Data collection is one of the worst areas and opportunities to enhance economic well-being.

I will also be asking, for the record, that our witnesses share any observations or recommendations they may have on how the Magnuson-Stevens Act could be improved to reflect and respond to the small-scale fisheries, such as those in the U.S. Caribbean.

I got an opportunity to interact with the Director when we were in recess, and one of the issues that we were discussing was the recovery process in the hurricanes. And this law, the Magnuson-Stevens Act, has worked quite well in the U.S. Caribbean, Puerto Rico, and the U.S. Virgin Islands.

The law provided for a regional council, Caribbean Fishery Management Council, and the necessary authorities and flexibility to sustainably manage our fisheries while balancing both environmental and local economies.

However, our fisheries in the U.S. Caribbean are still considered data poor, which creates challenge for stock assessments to data mine overfishing limits, annual catch limits, and established local fisheries as well. The situation is further complicated when considering that our commercial fisheries in Puerto Rico are, for the most part, small scale or traditional in nature, and they may lack the necessary tools or the capacity to support all these new data requirements. So, I do have concerns about the requirements of new data when we already are considered, in the Caribbean, data poor.

And in my conversations with stakeholders, there is clear need for dedicated funding to improve data collection in fisheries in Puerto Rico and the U.S. Virgin Islands, as well as for additional scientific research and studies to better inform the management decisions in the U.S. Caribbean.

So, my first question to you, ma'am, will be: As Congress considers legislation to reauthorize this bill, what additional resources or flexibilities should be included there to improve regional data collection systems and addressing long-standing fishery data gaps, such as the ones we have in the U.S. Caribbean?

Ms. COIT. Thank you for your comments and that question, and for the opportunity to chat about the unique characteristics of Puerto Rico in your area.

So, yes, you mentioned that the fisheries there are data poor in that we really don't have that Census data of counting the fish that come in the way we do in many other parts of the nation.

The President's budget did call for additional funding. Of course, the Fiscal Year 2022 budget is not enacted yet, but did call for additional funding for the Caribbean. And I think part of the additional needs we talked about in regard to more climate science and more data apply even more so to your area, where we are not seeing the big white ships doing the stock assessments, and we are really struggling to get quality information.

So, there are a couple—I do think it would be interesting to talk about whether, for data-poor fisheries, the standards could be more flexible, because it is very difficult to put the management plans together to the same standards when you don't have that quality data.

So, first, I would like to work with you to get more data in your waters, but I also do understand the particular challenges associated with meeting rigorous standards when you are lacking that data.

Miss GONZÁLEZ-COLÓN. Thank you. I know my time has expired. I would just like to introduce to the record letters from Antigua and Puerto Rico and Caribbean Fishery Management Council for U.S. Caribbean, both for the record. And I do have still more questions that I will submit for the record as well, and an open invitation for you to visit the island.

Thank you, and I yield back.

Ms. COIT. Thank you.

Mr. HUFFMAN. Without objection, that will be entered into the record.

[The information follows:]

Submissions for the Record by Rep. González-Colón

U.S. DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
CARIBBEAN FISHERY MANAGEMENT COUNCIL
SAN JUAN, PUERTO RICO

May 14, 2021

Dr. Paul N. Doremus
Assistant Administrator for Fisheries
Office no Assistant Administrator
NOAA Fisheries Service
1315 East West Highway
Silver Spring, MD 20910

Dear Dr. Doremus,

Herewith, we are pleased to submit the comments from the Caribbean Fishery Management Council (CFMC) on E.O. 14008, Section 216(c).

There is a need for cooperative research to improve the science for the monitoring and development of fishery management plans in the US Caribbean. It is imperative to close the data gaps in life history parameters of species under the management units. The lack of these data creates a challenge for stock assessment to determine status of the local fisheries. In addition, we need better data on habitats that are essential for these species. The betterment of the data collection and analysis will be beneficial for not only assessing climate change (including hurricane effects) and resilience, but also for carrying out our fisheries management mandate under the MSA.

Is important to study the oceanographic connectivity of shared fishery resources throughout the US Caribbean to the Southeast of the United States. For example, the spiny lobster fishery is a shared and economically important resource throughout the Wider Caribbean including the USA, where climate change may be affecting recruitment and the overall population of Caribbean spiny lobster (*Panulirus argus*) throughout its range.

Connectivity at depth, where the economically important deep-water snapper fishery (e.g., queen snapper, *Etelis oculatus*) takes place, is an unknown. Collaborative research with commercial fishers is yielding temperature-salinity measurements that may well be indicative of the depth at which climate change is impacting fisheries. These fisheries occur at more than 300 meters, under the influences of different water masses. Such studies should be continued by allocating funds to these investigations.

There is a need to continue and expand the monitoring and further studies of climate change impacts on coral reefs and coral refugia, including mesophotic and deep-water corals that constitute the essential fish habitats for the tropical species in the US Caribbean.

We recommend the development of programs to offer alternatives to the fishers to fish underutilized species and to promote the market of these species among the local consumers. This will alleviate the pressure on species suffering overfishing which also are being impacted by climate change, e.g., changes in temperature and salinity.

It is important to also begin to study and monitor species that might not be affected by climate change to identify those that might be resilient to climate change that could serve as the basis for the fisheries of the future.

Sincerely,

MARCOS HANKE,
CFMC Chair

UNIVERSITY OF PUERTO RICO
SEA GRANT COLLEGE PROGRAM
MAYAGUEZ, PUERTO RICO

November 11, 2021

The Honorable Jenniffer González-Colón
2338 Rayburn HOB
Washington, DC 20515

Dear Representative González-Colón,

Thank you for the opportunity to provide comments on the H.R. 4690, the Sustaning America's Fisheries for the Future Act which provides potential updates to the Magnus-Stevens Fisheries Conservation and Management Act (MSA). As mandated by our overarching he comments herewith focus on the impacts of the proposed legislation specific to the U.S. Caribbean.

In general, the current MSA, through the actions of the Caribbean Management Council, have worked for fisheries in the U.S. Caribbean by balancing the need to benefit both the nation's fisheries and local island communities. Transparency and the public involvement are foundational elements of MSA for carrying forward fisheries management decision making. Retaining these elements along with increasing the current adaptability mechanisms is crucial for the effectively managing the fisheries of our diverse region. The U.S. Caribbean archipelago is unique, made up of several distinct rural coastal communities and traditions that are dependent on the ocean for food security, recreation, and cultural identity. Our fisheries are considered strictly artisanal since they provide only for a small percent of local fish and shellfish consumption while our communities are underserved and experiencing disproportionate levels of poverty and lack of food resources in comparison to the rest of the continental U.S. National level definitions and provisions that afford regional flexibility safeguard these regional differences and avoid unnecessary implementation challenges. Essential fish habitat, forage fish, bycatch reporting, and subsistence fishing are examples of key provisions that would benefit from flexible implementation approach nationwide.

The proposal includes additional reporting and planning requirements intended to monitor fisheries performance and the effects of management measures in relation to climate change. These requirements could pose a significant challenge for the less developed, culturally based fisheries in the U.S. Caribbean. By nature of our artisanal subsistence fisheries, there is a limited capacity to satisfy these requirements, and also potential impacts regarding how the reporting and planning would be used as part of the management decision making process. U.S. Caribbean data collection systems have not evolved to support the sophisticated stock assessments to support and implement ACL management. The consequences of a management decision based upon faulty science, or an incomplete picture, can be significant for subsistence-based communities, which cannot simply reconfigure for other fisheries. In addition, merging environmental climate data with highly variable, data-limited fishery dependent data could amplify the already existing large uncertainties and impact the management obligations.

A continued investment in the research and monitoring infrastructure coupled with management and enforcement capacity within our region is essential for the existing management agencies to fully realize the responsibilities under MSA.

Thank you for taking our comments into consideration as part of your participation in the upcoming public hearing.

Sincerely,

RENÉ ESTEVES,
Marine Outreach Director
Research Coordinator
Puerto Rico Sea Grant

Mr. HUFFMAN. And, for Members who have expressed concern about better data and science, I will just note that we may have a chance in the days ahead to vote on that. There is $500 million in the Build Back Better Act for stock assessments and science. So, I am going to tempt Don Young to continue his bipartisan ways.

The Chair now recognizes Garret Graves of Louisiana. And, if you are watching at home, unless you are operating heavy equipment, there is a drinking game where, every time he says the words "red snapper," you have to take a drink.

Mr. YOUNG. Not of water, either.

Mr. GRAVES. Thank you, Mr. Chairman.

Thank you for being here, Administrator. I appreciate you being here.

First question on the forage bill, Congresswoman Dingell's bill. As I understand, the bill goes to great lengths to make it clear that shrimp are not subject to the restrictions in the legislation, and I just wanted to make sure that was your understanding as well, that shrimp were not actually subject to the bill.

Ms. COIT. Thank you for your question.

The bill leaves it up to NOAA or the Secretary under the language in the bill to create a definition of forage fish, and then it lists a number of criteria. And, to be straight with you, those criteria would lead to including shrimp in a definition or a category of forage fish. But the bill hasn't been enacted. The definition hasn't been completed, and I can't say definitively. But those criteria that are listed would lend toward including shrimp.

Mr. GRAVES. Sure. So, Administrator, One, it was my understanding that there were great lengths that they went to to exclude shrimp, so I would appreciate if you all could provide technical assistance to help us tweak the bill to ensure that that is the case.

I want to be really clear on this, that the objective of this legislation is something that I absolutely support, but the health of the shrimp stock is not anything that anyone I have ever known has been worried about, and we are concerned that coming in and applying some management structure there to something that has absolutely healthy, abundant stocks could be a problem, in especially my home state, where we actually produce more shrimp than anywhere else in the United States, including significantly more than Alaska. They hadn't figured out how to catch them there yet.

That is right. That is right. You heard that.

So, let's see—second one, I am curious, I know your background is in the state of Rhode Island. We have had issues where some of the science that has been developed by the states has actually been more robust, more thorough than that of the Federal Government. Can you just talk about your perspective on how to ensure that we

are getting the best science incorporated into our natural resource management regimes?

Ms. COIT. Thank you. I appreciate that.

So, definitely, after the 10 years I spent leading the Rhode Island Department of Environmental Management, I am very aware of and proud of the scientific caliber of the people who work at the state level. For our fishery management plans, state information and academic information and research are welcomed.

And there are sometimes issues where just kind of coordinating state research, or state management, with federal research and federal management takes some effort. But I think we have a wonderful partnership with the states and welcome state information, which is sometimes more fine-grained.

Mr. GRAVES. But, Administrator, I mean, is it fair to say you want to use the best science no matter where it came from?

Ms. COIT. I know where you are going. Yes, I do.

Mr. GRAVES. It doesn't count if she says it. OK. Thank you. I appreciate it.

So, I want to let you know we have made huge investments, including the fishers in Louisiana deciding to increase their own fees to make sure that we have better science, because we want to sustainably manage the fisheries and had strong concerns over the lack of accuracy of what the Feds had produced. You may be familiar with the great red snapper count that came out that was federally funded, that came out and really, I think, demonstrated how poor the quality was of the Federal science on this.

And this was a much more robust species-specific analysis that determined, again, triple the count of the red snapper species in the Gulf of Mexico as compared to what the Feds were managing under which—look, as you know, you have to manage this as a system. So, you have that many more predatory fish, then it impacts your entire management regime.

We need the best science, no matter where it comes from. And I hope you can give us a commitment that you are going to work to ensure that the best science is used, not convenient science.

Just an amen or something would be great. Thumbs up.

Ms. COIT. I think, yes, we want to use the best science.

Mr. GRAVES. All right.

Ms. COIT. The great red snapper count——

Mr. GRAVES. I will take that. Don't mess it up beyond there.

Last question I have for you. I appreciate, in your testimony, you make mention of fishery disasters. And I am from South Louisiana. We have had more than our share. But I will also tell you it is infuriating to be in a situation where it takes 1 year to collect the data to determine if there is a fishery failure—1 year.

These are communities, as you know, on the tip of the spear in regard to these hurricanes. They don't have that kind of time. And you make some constructive comments about the flaws—excuse me—didn't mean to refer to your bill as flawed—constructive improvements to the bill that—and I just want to know if you could expand on that briefly, about fisheries disasters, getting a ton of assistance there.

Ms. COIT. Yes, thank you. I agree with the Chair and with you that the time that it takes to get the funding out is inconsistent

with what we think of when we are trying to help people after a disaster. So, I really want to work on that, and I am working on it internally and with you. I am concerned that additional requirements or expansions or talking about only looking at the good years, not the kind of fluctuation of the biomass or the fisheries could further complicate things.

So, I think there are some issues that I would like to discuss further, but the goals of increasing the pace at which we get that funding out, we share.

Mr. GRAVES. I appreciate you raising your objections to the Chairman's bill, and yield back.

Mr. HUFFMAN. I didn't hear any objection to the disaster relief improvements in our bill.

But the Chair will now recognize Ms. Radewagen for 5 minutes.

Mrs. RADEWAGEN. Talofa lava. Good afternoon.

I want to thank you, Chairman Huffman and Ranking Member Don Young, for holding this hearing today.

I also want to thank House Dean Don Young for all of his hard work on fisheries management.

Administrator Coit, thank you for testifying today. I really appreciated your testimony.

Is NOAA in favor of changing National Standard 9 on bycatch to remove the phrase "to the extent practicable" under H.R. 4690, or does the agency believe the councils are doing an adequate job of minimizing bycatch and bycatch mortality?

Ms. COIT. Thank you for that question.

As mentioned, we want to do more to reduce bycatch, and we have made great strides, but I think that everyone is aligned in wanting to further reduce any discards. They all count, so to speak, so they all count against the quota.

And all fisheries have some degree of bycatch. So, I think the opportunity to be thoughtful and balance interests and make sure that we continue to work toward reducing bycatch is the goal.

As mentioned, I have some concerns about removing the practicability language.

Mrs. RADEWAGEN. Thank you.

For my second question, Administrator Coit, there are nearly a dozen pages of H.R. 4690 devoted to harassment and assault prevention, far more than is devoted to stock assessments, cooperative research, data collection, or electronic monitoring.

Can you please tell us how common these incidents are inside your agency and the councils in order to warrant such a disproportionate focus of national fisheries legislation?

Ms. COIT. I will have to get back to you on that issue of the frequency. I can say that we have a zero-tolerance policy and that, particularly when there are observers or at-sea monitors, we want to make sure that they are safe. And we do a lot of training and a lot of follow-up, but it has been a problem, and I think making sure that the staff who are federally funded and the people that are out at sea are protected is really important.

Mrs. RADEWAGEN. Thank you for your response.

I yield back the balance of my time, Mr. Chairman.

Mr. HUFFMAN. Thank you, Mrs. Radewagen.

Before we excuse the second panel, let me just make sure that Mr. Fulcher, who was with us a moment ago, is not still online. And, if he has questions, we will allow him to ask them now.

It looks like Mr. Fulcher is not with us. So, Mr. Gorelnik, Ms. Coit, thanks so much for your patience, and we thank you for your testimony. And that concludes this panel.

We will now transition to the third and final panel of expert witnesses.

Again, let me remind witnesses that, under our Committee Rules, they should limit their oral statements to 5 minutes. Obviously the entire written statement will appear in our hearing record.

When you begin, the lights on the witness table will turn green, or the timer, if you are joining us remotely. At 4 minutes, the light turns yellow. Your time expires when the light becomes red, and we will ask you to wrap up at that point.

I will allow the entire panel to finish their testimony before bringing it back to the Members for questions.

Our next panel will begin with Ms. Mary Peltola, Executive Director of the Kuskokwim——

Mr. YOUNG. Kuskokwim.

Mr. HUFFMAN. Sorry. Don Young is correcting me. Kuskokwim——

Mr. YOUNG. There you go.

Mr. HUFFMAN [continuing]. River Inter-Tribal Fish Commission.

The Chair now recognizes Ms. Peltola to testify for 5 minutes.

STATEMENT OF MARY PELTOLA, EXECUTIVE DIRECTOR, KUSKOKWIM RIVER INTER-TRIBAL FISH COMMISSION, BETHEL, ALASKA

Ms. PELTOLA. Mr. Chair, Committee members, thank you. My name is Mary Peltola. I am the Executive Director of the Kuskokwim River Inter-Tribal Fish Commission.

Mr. HUFFMAN. And thank you for the delicious salmon that you gave us. We were all enjoying it up here, by the way.

Ms. PELTOLA. My Yupik name is Akalleq. I have been fishing on the Kuskokwim River in our traditional way with my family since I was 6 years old.

Our way of life as Alaska Native people is inextricably linked with our marine ecosystem, which forms the foundation for our culture, our spirituality, our food security, and our future. We have stewarded this place for millennia.

In more recent years, the Bering Sea has also become host to huge commercial fisheries for pollock, crab, halibut, cod, and numerous other species. These commercial fisheries are among the largest in the world, harvesting vast amounts of seafood from the Bering Sea year after year.

Even in this rich and productive ecosystem, our current system of fishery management under the Magnuson-Stevens Act is failing. Ecologically, the Bering Sea is undergoing declines at an alarming level. In 2021, decades-long trends of declining Chinook salmon stocks continued and fisheries throughout western Alaska were closed.

Alarmingly, this year and last year, chum salmon stocks, which usually provide a critical source of food, even when Chinook stocks are low, crashed as well throughout western Alaska. These alarming changes reveal the weakness of our current management system to adapt to the challenges of climate change, when the only actions are to react and reduce the directed fisheries for these species without addressing the underlying bycatch, habitat, forage, and associated issues.

Alaska Native people are the original stewards of this place and have no seat at the table in a system that is set up to prioritize economic benefits over Indigenous ways of life and gives primary management responsibility to those with only a financial interest in the fisheries.

Regarding climate change, it is clear that our current fishery management system, which operates in a single-species context based on historical data and reliant on limited sources of knowledge, is not up for the challenge of climate change.

H.R. 4690 will incorporate climate considerations throughout the management process, and will provide important direction to the councils to consider and assess the climate change impacts on fisheries. Most importantly, these considerations must translate into action to ensure resilient and sustainable fisheries and fishing communities into the future.

Regarding tribes and Traditional Knowledge: Traditional Knowledge has an important place in our fishery management system, yet currently there is no recognition or inclusion of Traditional Knowledge in Federal marine fishery systems. The topic of Traditional Knowledge is too detailed to provide comment on in a 5-minute window, but I am ready to answer questions about it if asked.

H.R. 4690 makes several important changes to improve equity in the fishery management process overall, and for tribes in particular. The bill includes subsistence—just even the word "subsistence" throughout the Act, bringing this important use of fisheries—really our most historic use of the fishery formally into the Magnuson-Stevens Act.

Most importantly, H.R. 4690 adds two designated tribal seats to the North Pacific Fishery Management Council, and would give Alaska Native tribes long-overdue seats at the management table.

In addition, H.R. 4690 makes important changes to provide more balance in the council system by requiring broader representation, and more balanced appointments. These are essential changes to a broken system, and we support them wholeheartedly.

Regarding reducing bycatch, wasting is not acceptable according to our cultural values, which guide us to take only what we need and use everything we take. And wasting fish and wildlife has serious impacts on the future of our resources. Under current law, bycatch must be minimized under National Standard 9, but only to the extent practicable.

In a council system dominated by the fishing industry, in real terms, this is interpreted to mean that bycatch need only be minimized to the extent that it doesn't cause economic impacts to the fishery catching the bycatch. This creates serious conservation concerns by unnecessarily wasting fish. It also poses stark equity

issues by prioritizing bycatch fisheries over traditional and historic fisheries that allow people to feed our own families.

H.R. 4690 addresses this critical issue by removing the phrase "to the extent practicable" from National Standard 9. We support this very important change, which will reorient the MSA toward the original purpose of reducing bycatch. This change is key to the sustainability of our fisheries and to creating a more just and equitable system.

Thank you for the opportunity to provide comments today. Our fishery management system and our fisheries are at a crossroads as we face the crisis of climate change with an inequitable system of management. We are heartened by the forward-thinking solutions presented in the Sustaining America's Fisheries for the Future Act, which will give us the tools we need to restore abundant oceans and continue practicing our way of life.

We look forward to working with the Subcommittee and your staff to move H.R. 4690 forward.

Am I over?

Mr. HUFFMAN. You are over time, but I ate some of your time at the beginning thanking you for the salmon, so it's good.

Ms. PELTOLA. OK. I just wanted to mention that we are only trying to feed our own families. We are down to 20 percent of what we historically harvested. We do not contribute anything to the gross domestic product or ex-vessel value. We are just trying to feed our families.

[The prepared statement of Ms. Peltola follows:]

PREPARED STATEMENT OF MARY SATTLER PELTOLA, EXECUTIVE DIRECTOR, KUSKOKWIM RIVER INTER-TRIBAL FISH COMMISSION

Mr. Chair and Committee members, thank you for the opportunity to testify today. My name is Mary Peltola, and I am the Executive Director of the Kuskokwim Inter-Tribal Fish Commission (KRITFC). My Yupik name is Akalleq. My mother's grandparents lived most of the year at the confluence of the Gweek and Kuskokwim Rivers until my mother was 5 or 6 and they were told to relocate during the school year to Kwethluk, Alaska, a community at the confluence of the Kwethluk and Kuskokwim Rivers. I have been fishing with my family on the Kuskokwim in our traditional way since I was 6 years old.

The KRITFC is a fishery co-management organization composed of all of the 33 federally recognized Alaska Native tribes located along the Kuskokwim River. While each KRITFC member tribe has a unique relationship with the Kuskokwim River, all our tribal members are unified by the vitally important role salmon—in particular, Chinook salmon—plays in our nutritional, cultural, and spiritual well-being. Alaska Natives have been stewards of this resource for at least 12,000 years, since before contact with Russian traders and missionaries, and well before statehood. We successfully managed the harvest and conservation of all Kuskokwim River salmon stocks according to our traditional Yupik and Athabascan rules and values: To provide for children, the disabled, and the elderly first. Only catch what you can process and eat. Share what you cannot. Treat our resources with respect. On the Yukon River and Norton Sound to the north, Bristol Bay to the south, and throughout Alaska, these values, stewardship, and connections to marine ecosystems hold true.

The North Pacific is an incredibly diverse and productive ecosystem, home to millions of seabirds, hundreds of thousands of marine mammals and numerous species of fish and invertebrates. Our way of life as Yupik people is inextricably linked with this marine ecosystem, which forms the foundation of our culture, our food security, and our future. We have stewarded this place for millennia, living in relationship with the Bering Sea. In more recent years, the Bering Sea has also become host to huge commercial fisheries for pollock, crab, halibut, cod, yellowfin sole, and numerous other species. These commercial fisheries are among the largest in the world, harvesting vast amounts of seafood from the Bering Sea year after year.

Even in this rich and productive ecosystem, our current system of fishery management under the Magnuson-Stevens Act (MSA) is failing. Ecologically, the Bering Sea is undergoing declines at an alarming level. In 2021, decades-long trends of declining Chinook salmon stocks continued and fisheries throughout Western Alaska were closed. Alarmingly, this year chum salmon stocks, which usually provide a critical source of food even when Chinook stocks are low, crashed as well throughout the region. On the Kuskokwim River, chum salmon were at their lowest level on record. Bristol Bay Red King crab and snow crab populations dropped dramatically, and seabird die-offs were reported throughout the region, on top of ongoing marine mammal mortality events. These alarming changes reveal the weaknesses of our current management system to adapt to the challenges of climate change, when the only actions are to react and reduce the directed fisheries for these species without addressing the underlying bycatch, habitat, forage, and associated issues.

At the same time, when it comes to equity and inclusion, the current management system under the MSA is failing us. In the North Pacific this is particularly clear and stark, as Alaska Native people, who are the original stewards of this place, have no seat at the table in a system that has been set up to prioritize economic benefits over Indigenous ways of life and gives primary management responsibility to those with a financial interest in the fisheries over those who depend on it for subsistence.

Our oceans and fisheries today face new challenges, and we have an opportunity to move forward to address these challenges and create a fishery management system that is sustainable, equitable and just to move our nation forward. The Sustaining America's Fisheries for the Future Act (H.R. 4690) offered by Representatives Huffman and Case offers many important solutions, and we look forward to working with the Committee, Congress, and the Administration to advance these important changes to the MSA.

1. Climate Change

Climate change poses a real and ongoing threat to our way of life and fisheries in the region. The Bering Sea is warming significantly faster than oceans in temperate zones, and the Arctic is warming 2–3 times faster than the rest of the planet. Climate change is having a wide range of impacts, including population declines and shifts across marine animals under warmer, more acidic, and increasingly toxic ocean conditions as a result of harmful algal blooms and increasingly ice-free ocean conditions.

It is essential that we take local, national, and international action to reduce greenhouse gas emissions. At the same time, we must take action to make our fishery management system climate-ready and be able to respond to the changing conditions around us. It is clear that our current fishery management system, which operates in a single-species context, based on historical data and reliant on limited sources of knowledge, is not up for the challenge. Change is needed now to ensure our oceans and our fisheries are resilient in the face of climate change. H.R. 4690 makes important changes to the MSA to better adapt to climate change. Incorporating climate considerations throughout the management process will provide important direction to the Councils to consider and assess the climate change impacts on fisheries. Most importantly, these considerations must translate into action to ensure resilient and sustainable fisheries and fishing communities into the future.

2. Including Tribes and Traditional Knowledge

Native American Tribes and Indigenous people throughout the United States have stewarded our oceans and fisheries since time immemorial. Yet the Magnuson Stevens Act creates a management system that systemically and intentionally excludes Native American people and our knowledge. The word "subsistence" only appears once in the MSA. In the North Pacific, Alaska Native Tribes have no designated seat at the North Pacific Fishery Management Council, and our only avenue for a seat at the table is through a Governor's office that has historically and presently prioritized those with private financial interests in the fisheries over the long-term subsistence interests of Alaska Natives. Despite our status as sovereign governments, Alaska Native Tribes do not have representation on Council advisory bodies either, with no representation on the Scientific and Statistical Committee and limited representation on the Advisory Panel. This lack of representation results in Council decisions that do not take the rights or needs of our Native People into consideration and are actively eroding our way of life and our culture.

Further, the current management system does not provide for nor require inclusion of Traditional and Indigenous Knowledge. One example is the ecological

approach our Tribal Commissioners bring to co-management of Chinook (and chum) salmon with the Yukon Delta National Wildlife Refuge has made predicting the Chinook return much more accurate. The Alaska Department of Fish and Game (ADF&G) Commercial Fisheries Division issues Chinook salmon forecasts based solely on prior season runs, which in 2019 and 2020 were off by 100,000 fish, and when the entire run size has been around 100,000 for the last 10 years. In 2018 the ADF&G forecast predicted about 120,000 Chinook salmon. James Nicori of Kwethluk, one of four KRITFC In-Season Managers, said that the migratory birds, specifically the Canadian Geese, were in high abundance that year and he predicted we would meet or exceed our escapement goal of 110,000 Chinook salmon, even with additional opportunities to harvest subsistence salmon. KRITFC stood with James Nicori's Traditional Knowledge and supported additional harvest opportunities, with a warning from the federal in-season manager at the time that if escapement wasn't met, KRITFC would be held responsible.

James' predictions, grounded in Traditional Knowledge, have held true from 2017 to 2021. His predictions held true in 2018 and the escapement goal was met. In 2019, James predicted a large Chinook return based on snowpack in the mountains, snowpack at the lower river, prevailing winds, and migratory bird returns. The return was twice ADF&G's forecast. In 2020, the ADF&G forecasted 220,000 Chinook salmon would return; however, James Nicori predicted it would be in keeping with the 2010–2018 return levels, and the run was indeed in the 120,000 range. This past summer, James Nicori predicted the Chinook salmon would return, taper off, and a second push of fish would arrive larger than the first push. Each of these predictions were 100% accurate to what happened in the 2021 season.

While western science has no ability to index run timing, James Nicori, with the Traditional Knowledge he has inherited, is able to predict if the Chinook salmon will be a week or two early, on time, or a week or two late, as well as discern when the Chinook salmon run is at its 50% mark based on which side of the river he is catching fish at his fish camp. As this example shows, Traditional Knowledge has an important place in our fishery management system, yet currently there is no recognition or inclusion of Traditional Knowledge in federal marine fisheries systems.

H.R. 4690 makes several important changes to improve equity in the fishery management process overall, and for Tribes in particular. The bill includes subsistence throughout the act, bringing this important "use" of fishery resources formally into the MSA. Most importantly, H.R. 4690 adds two designated Tribal Seats to the North Pacific Fishery Management Council. Parallel to the PFMC Tribal seat, these seats would be nominated directly by Alaska Native Tribes and would give our governments a long overdue seats at the management table. These seats should be nominated directly by Alaska Native Tribes—and only Alaska Native Tribes—via a process that can be established via consultation and regulation. In addition, H.R. 4690 makes important changes to provide more balance in the Council system by requiring broader representation and more balanced appointments. These are essential changes to a broken system, and we support them wholeheartedly.

3. Reduce Bycatch

Bycatch, the unintended catch of non-target fish and marine mammals which are discarded by the commercial fishing industry, is serious issue with ecological, cultural, social, and economic impacts. Wasting is not acceptable according to our cultural values, which guide us to take only what we need and use everything we take, and wasting fish and wildlife has serious impacts on the future of our resources. Under current law, bycatch must be "minimized" under National Standard 9, but only "to the extent practicable."

> "(9) Conservation and management measures shall, to the extent practicable, (A) minimize bycatch and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch." [1]

In a Council system dominated by the fishing industry (see above), in real terms this is interpreted to mean that bycatch need only be minimized to the extent that it doesn't cause economic impacts to the fishery catching the bycatch. This creates serious conservation concerns by unnecessarily wasting fish. It also poses stark equity issues by prioritizing bycatch fisheries over traditional and historic fisheries.

For example, Chinook and chum salmon are caught as bycatch in the Bering Sea pollock fishery. So far in 2021, over 500,000 chum salmon and 12,000 Chinook salmon have been taken as bycatch and discarded in the pollock fishery. While

[1] 16 U.S.C. § 1851(a)(9).

Indigenous communities throughout the Arctic-Yukon-Kuskokwim region have had their subsistence and commercial fisheries completely shut down, bycatch is allowed to continue at high levels in the Bering Sea pollock fishery. The North Pacific Fishery Management Council has adopted a series of measures to reduce the commercial pollock fishery's Chinook and chum salmon bycatch over the years, yet these measures have been demonstrably insufficient. The amount of bycatch allowed under the current standard of "practicability" in and "minimization" in National Standard 9 has resulted in a blatantly inequitable distribution of resources in which the large and powerful commercial pollock fishery is allowed to waste a valuable public resource, while Tribal subsistence users who rely on that same resource for their way of life are shut out.

H.R. 4690 addresses this critical issue by removing the phrase "to the extent practicable" from National Standard 9. We support this very important change, which will reorient the MSA toward the original purpose of reducing bycatch. This change is key to the sustainability of our fisheries, and to creating a more just and equitable management system.

4. Conclusion

Thank you for the opportunity to provide comments today. Our fishery management system and our fisheries are at a crossroads as we face the crisis of climate change with an inequitable system of management. We are heartened by the forward-thinking solutions presented in the Sustaining America's Fisheries for the Future Act which will give us the tools we need to restore abundant oceans and continue practicing our way of life. We look forward to working with the Subcommittee and your staff to move H.R. 4690 forward.

QUESTIONS SUBMITTED FOR THE RECORD TO MARY PELTOLA, EXECUTIVE DIRECTOR OF THE KUSKOKWIM RIVER INTER-TRIBAL FISH COMMISSION

Questions Submitted by Representative Huffman

Question 1. Ms. Peltola, in your remarks you mentioned that this past summer your fishing allotment was reduced to 0 percent for Chum and Chinook salmon.

(a) What is your normal fishing allotment? How does that compare to the allotment of commercial interests in the area?

Answer. Indigenous subsistence fishing communities are experiencing a multi-year decline of Chinook and chum salmon on both the Kuskokwim and Yukon Rivers. This year, 2021, was the eighth year that Chinook salmon runs have been too low to support subsistence needs and the first year that once-abundant chum salmon returns have been even lower than Chinook salmon returns, resulting in significant restrictions on fishing for both species on both rivers. The historical average drainage-wide subsistence harvest of Kuskokwim Chinook salmon was approximately 85,500 fish per year, with each fish averaging 33 pounds each. Our recent 10-year average harvest of Chinook salmon is in the range of 20,000–40,000 fish with each Chinook salmon averaging 11 pounds. This is a stark reduction in numbers of Chinook salmon and an even more devastating loss of nutrition for Tribal citizens and rural residents due to ecosystem changes producing much smaller sizes of Chinook salmon returning to their natal streams.

There has not been a commercial season for Chinook salmon on the Kuskokwim River since the 1990s. Meanwhile, in 2021, over 15,000 Chinook salmon have been taken as bycatch and discarded in the commercial pollock fishery. This bycatch includes Chinook salmon from throughout Alaska and the Pacific Northwest. On average, 40–60% of these bycaught Chinook salmon are bound for Interior and Western Alaska Rivers, almost all of which had no subsistence fishing or extremely reduced harvests this year.

Compounding the crisis, chum salmon runs also dropped precipitously this year. The chum salmon return on the Kuskokwim has historically been in the millions. There are multiple highly productive chum tributaries on the Kuskokwim, such as the Kwethluk, Kogrukluk, and George Rivers, which historically saw millions or multiple millions of chum salmon per summer. Shockingly, this summer saw perhaps between 5–10% of the normal chum returns (and this is a liberal estimate). In 2021, over 500,000 chum salmon were taken as bycatch and discarded by the

pollock fishery. According to genetic analysis from 2019, approximately 16% of these chum salmon were bound for Western Alaska rivers, including the Kuskokwim.[1]

The total allowable catch for the trawl fleet is in the millions of metric tons. In addition to the pressure the trawl fleet is imposing on chum salmon, the State's Commercial Fisheries Division under the ADF&G has allowed over 1 million chum salmon to be caught and sold in the Area M/False Pass Commercial chum salmon fishery. Past genetic stock identification work indicates that the Area M/False Pass Commercial fishery also intercepts Kuskokwim chum salmon.

Subsistence fishermen consume less than 1% of the State's resources when we have access to abundant returns. Compared to the commercial industry and commercial fleets, our subsistence fishermen, who are only trying to feed our families, are literally fighting for crumbs. We are being aced out of our historical <1% of salmon.

(b) How would enacting H.R. 4690 address the impacts of excessive amounts of bycatch by Indigenous fishers and change the conditions that resulted in your fishing allotment being reduced to 0 percent?

Answer.[2] Chinook and chum salmon declines are due to several factors, including bycatch and climate change. Climate change poses a real and ongoing threat to our way of life and fisheries in the region, and our current management process under the Magnuson-Stevens Act is not built to adapt to the challenges climate change is posing. H.R. 4690 makes important changes to the MSA to better adapt to climate change. Incorporating climate considerations throughout the management process will provide important direction to the Councils to consider and assess the climate change impacts on fisheries. In the long run these changes will help every species in the ecosystem, including salmon, especially if these considerations must translate into action to ensure resilient and sustainable fisheries and fishing communities into the future.

Enacting H.R. 4690 would also require greater reduction of bycatch, addressing the inequities in the current system that allow for bycatch to continue unheeded while Indigenous fishermen are not allowed to fish at all. National Standard 9 current only requires bycatch reduction "to the extent practicable." For too long practicability has been an excuse for not reducing bycatch. H.R. 4690 addresses this critical issue by removing the phrase "to the extent practicable" from National Standard 9. This very important change will reorient the MSA toward the original purpose of reducing bycatch.

Finally, H.R. 4690 would add two designated Tribal voting seats to the NPFMC. This change would provide the Tribes who have stewarded our oceans and fisheries since time immemorial seats at the table and voice in the decisions that impact our lives. This would enable Tribes to bring our perspective and experiences to the decisions made at the NPFMC, allowing us to have a say in the management of bycatch and other effects from the industrial fisheries occurring in our waters of the Bering Sea.

Mr. HUFFMAN. Thank you very much, Ms. Peltola.

Ms. PELTOLA. Thank you.

Mr. HUFFMAN. And I will have some questions for you when we come back to questions as well.

At this point, I want to recognize Representative Case to introduce our next witness.

Mr. CASE. Mr. Aila, are you on there? Are you with us?

Mr. AILA. Yes. Can you hear me?

Mr. CASE. We can. OK. Let me introduce you, Bill.

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[1] C.M. Kondzela, et al., NOAA Technical Memorandum NMFS-AFSC-422: *Genetic Stock Composition Analysis of Chum Salmon from the Prohbited Species Catch of the 2019 Bering Sea Walleye Pollock Trawl Fishery* (Aug. 2021).

[2] I wish to convey that Indigenous fishermen do not have any "bycatch." Every fish caught is respected and eaten and no part of any fish is wasted. The term "bycatch" is an oxymoron and anathema to Indigenous people. The freshwater, saltwater, land, and air provide many food sources and we consume what we harvest, including all types of fish. If they are not edible by humans, many people use the fish as dog food. Salmon not fit for human consumption fed to dogs is also protected for customary and traditional uses under both state and federal (ANILCA Title VIII) subsistence laws.

I am really honored to introduce William Aila, Jr., who currently serves as Chair of the Hawaiian Homes Commission, which is responsible for administration of our Federal Hawaiian Homes Commission Act.

And, prior to his role, Chair Aila served as the Chair of our State's Department of Land and Natural Resources, whose duties include the management of Hawaii's fishing resources. In that capacity, he did serve as a member of the Western Pacific Fisheries Management Council and as its Interim Chair.

He has also served as the Chair of the Papahanaumokuakea Reserve Advisory Council, which preceded our world-class Marine National Monument, was a member of the Pelagic Advisory Subpanel to the Western Pacific Fisheries Management Council, and helped found the Hawaiian Fishermen's Foundation.

He is also a lifelong native Hawaiian fisherman, so he has practiced Indigenous sustainable fishing practices for his entire life. He has a wealth of knowledge in this area, and I welcome you to the Committee, Chair Aila.

Mr. HUFFMAN. Thank you, Mr. Aila.

Mr. AILA. Thank you very, very much.

Mr. HUFFMAN. You are recognized for 5 minutes.

STATEMENT OF WILLIAM J. AILA JR., CHAIRMAN, HAWAIIAN HOMES COMMISSION, WAIANAE, HAWAII

Mr. AILA. Thank you very, very much, Representative Huffman, Chair, and mahalo for that really warm introduction.

I also fished with my wife and my children for more than the past 30 years. And, as Representative Case indicated, I have done commercial fisheries, recreational fisheries, and fished for cultural reasons.

The bulk of my testimony is going to be relative to H.R. 4690, and to the Western Pacific Fisheries Management Council, because that is what I am familiar with.

In addition to my written testimony, I would like to highlight a number of points. Point No. 1, the current and past councils have certainly been heavily weighted to longline fishing and commercial fishing. An example of the result of that is the weight at the lobster fishery was allowed to continue even though species were mixed.

So, the spiny lobster fishery was fished and the catch per unit effort declined. The fishery turned to a slipper lobster fishery, but the panel and the scientific committee allowed the data to be collected the same. And, as a result, the lobster fishery crashed for all species. Section 305 will take care of that.

There is a definite conflict of interest with regards to the commercial fishing influence. A prime example of this would be there were quotas that were adopted several years ago around the archipelago of Hawaii, and those quotas were bypassed by allowing the purchase of quotas from fisheries in other parts of the Pacific. So, allowing fish to continue to be taken in an area where the quotas were set up for from other areas is a great example of how not to manage archipelago fishing.

And, again, Section 304 and Section 305, as amended, will take care of that.

There is a definite lack of NOAA oversight. It is clear from the OIG report, 22–004-A. The details, I encourage you to look up. Again, amendments to Section 306 will help take care of that.

I wish I had more time to talk about the shark-finning issues and how WESPAC have managed to hold off any improvements to reducing bycatch of shark fins, and it took Congress to pass a law to bypass that.

I would like to bring into the record—and I am not sure how, but I will make sure that you get a copy of a February 21, 2021, testimony to the Fisheries Listening Tour that you, Representative Huffman, conducted here in Hawaii, and the now-Chair of the Department of Land and Natural Resources, Suzanne Case, included many examples of how the Western Pacific Fisheries Management Council and their actions are interfering with the fisheries that are in state waters.

For example, there is a fish called akule, which is a big-eye scad. All of it is captured in state waters. However, WESPAC continues to do stock assessments, all without consultation with the state of Hawaii. Again, amendments to Sections 304, 305, and 306, will take care of that.

I will just point out that, as a member of the RAC, I am appointed by the Governor, and this is not RAC testimony, but the Governor of Hawaii, Governor Ige, is certainly fully supportive of accountability in all state things, and especially in fisheries. In fact, the current 30-by-30 that President Biden is promoting was actually enacted in the state of Hawaii 2 years ago.

In closing, because I don't want to take up too much time, I will just say, with regards to the Western Pacific Fisheries Management Council, if all you do is adopt the amendments in Sections 304, 305, and 306, that will increase accountability, and it will promote sustainable fisheries here in Hawaii and throughout the entire Pacific.

I thank you for the opportunity to present testimony.

Mr. HUFFMAN. Thank you, Mr. Aila.

[The prepared statement of Mr. Aila follows:]

PREPARED STATEMENT OF WILLIAM J. AILA, JR.

Aloha Chair Huffman,

Thank you for allowing me to testify on H.R. 4690, Sustaining America's Fisheries for the Future Act of 2021. The proposed amendments in the re-authorization of the Magnuson-Stevens Act are long overdue! Thank you for the courage to reform the Regional Fisheries Councils.

My focus today will be on the Western Pacific Fisheries Management Council (WESPAC) and the need for increased accountability. My experience with this Council goes back for more than 33 years. In 1989, myself and many other small boat (14' to 40') fishermen petitioned the Council to promulgate rules on the massive influx of Longline fishermen relocation to Hawaii. Hawaii small boat fishermen were requesting a cap on the number of these industrial fishers, capable of laying out more than 25 miles of mail line with thousands of hooks. By-catch was a huge problem. Conflicts between Longliners and small boat resulted in shots being fired and gear cut.

Additional regulations requested included, Longline closed areas, Vessel Monitoring for Longliners who would be observed fishing in the closed areas, and Requirements for Log books which led to several successful prosecutions of violations. WESPAC Council members, staff, and the Executive Director lobbied both the State Legislature and Hawaii's Congressional delegation to prevent the requested regulations from being enacted. Were it not for thousands of small boat fishermen attending a multitude of meetings, WESPAC would have succeeded.

Having been made aware of WESPAC and the influence it had on Hawaii's Fishery resources, several small boat fishermen including myself joined the Pelagics, Bottom Fish, Native Hawaiian, and Coral Advisory Panels. For several years we provided advice as fishermen who understood sustainable fisheries because we were taught for generations to practice it. After serving for several years and providing sound advice on limiting permits for bottom fishing in the North-Western Hawaiian Islands (NWHIS) because of declining catch rates and advocating for the use of tuna circle hooks in the longline fishery to reduce mortality on several species of sea turtles, migratory sea birds, and cetaceans such as False Killer Whales, these subcommittees were disbanded in the name of funding reductions. It didn't take a fisheries scientist to conclude what was going on. WESPAC wasn't interested in managing sustainable fisheries. The last straw was the collapse of the lobster fishery in the NWHIS. We dug into WESPAC's mis-management of this fishery and discovered how manipulated science for profit can never be sustainable.

The Lobster fishery started out catching Spiny lobsters, then the Catch Per Unit (CPUE) effort started to decline. The fishermen then targeted slipper lobster, a different species but the species were allowed to be counted together making it appear that CPUE was sustainable. It wasn't long before the CPUE started to decline again. The lobster fishermen then convinced WESPAC that the problem was related to the predators eating the undersized and Berried lobsters (females with eggs) and that they were required to release. Lobster regulations were amended to allow for this change despite testimony in opposition by many Elder Hawaiian fishermen.

The result was predictable crashing a few seasons later and those fishermen just switched fisheries, but the damage was done and more than 25 years later has not recovered.

That was the last straw. Several fishermen who served on the WESPAC disbanded Advisory Panels organized and partnered with Hula Practitioners, Hawaiian Elders and Environmental groups and others to seek protections from WESPAC for the fish, cetaceans, and corals in the NWHIS by requesting that President Clinton create a monument for protection. At the time President Clinton was considering designation of a monument for the area, WESPAC was actively lobbying then Governor Linda Lingle to oppose the monument by withholding State Waters. Fortunately, President Clinton designated the area the North Western Hawaiian Islands Coral Reef Ecosystem Reserve, setting the Lobster quota at zero. Shortly after that a Federal Permit buyback program purchased the remaining bottom fish permits for the Reserve. The full protection of the area was finalized by President Obama with Presidential Proclamation 8112 signed on August 26, 2016, expanding on previous protections.

WESPAC didn't waste any time in requesting President Trump to issue his own Proclamation allowing fishing in the Papahanaumokuakea National Marine Monument soon after being elected.

Handing our per-diem via cash in envelopes as WESPAC organized group meetings for Native Hawaiians and State elected officials is another questionable practice of WESPAC as it worked to create an Advisory group to advise the State Department of Land and Natural Resources.

Although WESPAC never introduced the Bill in the State Legislature they certainly influenced its drafting and introduction of the Bill.

For a much more in-depth current review of WESPAC's lobbing efforts and reporting of an active investigation into possible violations of Federal Ethics Rules, see the following links to Civil Beat Stories covering WESPAC:

November 3, 2021

https://www.civilbeat.org/2021/11/how-politics-and-lobbying-have-shaped-federal-fisheries-policies-in-the-pacific/

November 4, 2021

https://www.civilbeat.org/2021/11/wespacs-aggressive-effort-to-muscle-in-on-state-control-of-fisheries/

Because of these and many other recurring reasons, these much needed reform measures included in H.R. 4690 should be adopted. I would like to highlight proposed sections for its application to WESPAC:

Title 1

Sec. 102. Promoting climate resilience in fisheries management. This will enhance protection.

Sec. 103. Incorporating climate science. Especially the suggested training for new council members

Sec. 106. Emerging fisheries. The impacts of new gear on by-catch and protected species.

Title II

Sec. 202. Subsistence fishing. In (42A)(A)(iii) Customary trade should not include reimbursement of expenses.

Sec. 205. Community participation in limited access privilege programs. It should be clear that this doesn't apply to programs in State Jurisdictions. Undue influence of WESPAC in State Waters.

Title III

Sec. 304. Council procedures and participation. This will increase transparency.

Sec. 305. Council accountability and membership. This is critical to reform WESPAC.

Sec. 306. Amendments to the Western Pacific Sustainable Fisheries Fund. This is critical to reforming WESPAC and bringing accountability on how funds are accounted for.

Title IV

Sec. 403. Stock assessments. Reports to Congress should also include reduction success of efforts to reduce bycatch.

Sec.404. Cooperative research and management. Scientific transparency will be improved dramatically once this is adopted. WESPAC avoids outside science.

Title V

Sec. 503. Reducing bycatch. This is critical to ecosystem management and protected species survival.

Sec. 504. Improving rebuilding outcomes. This is absolutely needed to hold councils accountable.

Sec. 505. Depleted fisheries and preventing overfishing. The holding of SCCs accountable to account for all sources of mortality and including effects of climate change will result in more precautionary recommendations and including a rule of construct regarding overfishing should result in better management by regional fishery councils.

Thank you for the opportunity to address you and the Subcommittee.

QUESTIONS SUBMITTED FOR THE RECORD TO MR. WILLIAM J. AILA JR., CHAIRMAN, HAWAIIAN HOMES COMMISSION

Questions Submitted by Representative Radewagen

Question 1. Mr. Aila, as you are aware the GAO in 2009 conducted of review of the Council resulting from a request from "several Hawaii-based conservation advocacy organizations" allegations against the Council related to lobbying, conflicts of interest, use of federal funds. Are you aware that the 2009 GAO report states: "Overall, we found little or no evidence to substantiate the many allegations related to lobbying, conflicts of interest, the use of and accounting for federal funds and council operations, in part because some of the allegations were factually inaccurate." Your testimony states that the Council lobbied the Governor. Are you aware that Regional Councils are allowed to directly engage both federal and local administrations?

Question 2. Mr. Aila, your testimony states that there is a "much more in-depth current review of WESPAC's lobbying efforts and reporting of an active investigation into possible violations of Federal Ethics Rules" that is ongoing. Can you elaborate on the specifics of who is conducting this "investigation" on ethics violations?

Answer.

Aloha Ms. Radewagen, regarding Questions 1 and 2, I am aware of the GAO investigation of WESPAC improprieties in 2009. The request for an investigation was made as early as 2005. I was part of several groups who requested the action and hope to make you aware that although there was a finding of no serious violations at the time, the GAO made strong recommendations for NOAA and WESPAC to implement.

These recommended reforms included:

- The WESPAC council provide more transparency about its decision-making processes.
- Publishing reasons why members recuse themselves from a vote.
- Posting minutes of its meetings online as other regional councils did.
- Consulting with NOAA attorneys before making decisions.
- The GAO specifically recommended that the council notify NOAA attorneys before meeting with federal or state lawmakers or when testifying before a legislative committee.

The GAO report also stated that the council and other federal bodies that receive federal funds are prohibited from trying to influence legislation. They may, however present technical or factual information to lawmakers if requested. This grey line would no longer be grey should Rep. Huffman's amendments to the Magnuson-Stevens Act be adopted.

I have included several articles from the period 2005 to 2009 (Attachments #1–3), a Star Bulletin editorial dated November 13, 2005 (Attachment #4), and a freedom of information request from Christine Owens to the Inspector General of the Department of Commerce confirming an investigation was ongoing (Attachment #5).

Wed - Nov 9, 2005 Hon. Adv.

Sports-fishing clubs request probe of regulatory council

BY DAVID WAITE
Advertiser Staff Writer

Two O'ahu-based sports-fishing clubs are asking for a federal investigation of the agency in charge of managing fisheries throughout the Hawaiian Islands, to see whose interests the agency is representing.

William Aila, a spokesman for the Oahu Game Fish Club and the Waianae Boat Fishing Club, said yesterday that the clubs have sent a request to the inspector general's office of the U.S. Department of Commerce to investigate the Western Pacific Regional Fishery Management Council, also known as Wespac.

Aila said the clubs believe that Wespac has spent years trying to protect or restore commercial fishing interests within the Northwestern Hawaiian Islands' federally designated Coral Reef Ecosystem Reserve area and is resisting efforts to have the area designated a marine sanctuary.

Aila said the final straw came last month when the National Oceanic and Atmospheric Administration "completely rejected" Wespac's proposed fishing regulations for the Northwestern Hawaiian Islands, a string of low islands and seamounts extending about 1,200 miles to the northwest from Kaua'i.

Two calls to Wespac representatives in Guam were not returned yesterday.

Wespac is one of eight fishing management councils established to regulate U.S.-governed waters. Wespac's 13 members have authority over Pacific Ocean waters surrounding Hawai'i, American Samoa, Guam and the Northern Mariana Islands and along the Northwestern Hawaiian Islands.

Aila claims Wespac officials have spent the past five years trying to get commercial fishing restored within the Coral Reef Ecosystem Reserve in the Northwestern Hawaiian Islands that was established by President Clinton in his final days in office.

And while NOAA has repeatedly tried to persuade Wespac members to adopt an all-out ban on commercial fishing within the marine sanctuary proposed for the Northwestern Hawaiian Islands, the agency as recently as this year proposed that commercial fishing be allowed to continue, with proper oversight.

Aila said the two fishing clubs have about 100 members each and believe that Wespac spent public money to lobby in favor of continued commercial fishing within the Northwestern Hawaiian Islands, improperly manipulated public testimony in drafting its proposed rules for the fishery and engaged in scare tactics by trying to convince Native Hawaiians they would be banned from subsistence fishing in the northwestern islands if a marine sanctuary were to be created there.

Aila said the members of the two sports-fishing clubs realize Wespac is responsible for considering the views of people engaged in commercial fishing as well as the public.

"We have no quarrel with Wespac advocating on behalf of the commercial fishing industry as long as it's done in an ethical, lawful and responsible manner," Aila said.

The two fishing clubs want the inspector general's office to "thoroughly investigate Wespac and do whatever is necessary to get Wespac back on track to doing its job within the legal mandates."

Reach David Waite at 525-7412 or dwaite@honoluluadvertiser.com.

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Star Bulletin Thurs. June 21, 2007

Fisheries council faulted on ethics, lobbying rules

By Diana Leone
dleone@starbulletin.com

Three Hawaii environmental groups, a native Hawaiian cultural group and a national conservation organization are calling for a congressional investigation of the Western Pacific Regional Fishery Management Council.

Na Imi Pono, the Hawaii Audubon Society, the Snorkel Bob Foundation, the Conservation Council for Hawaii and the Marine Conservation Biology Institute said in a joint news release yesterday that they also seek the resignation of Kitty Simonds, longtime council executive director.

The groups' announcement came yesterday after four individuals — including Linda Paul, Hawaii Audubon Society aquatics division director — announced they are filing complaints about Simonds and her council, often referred to as Westpac or Wespac, with the U.S. Commerce Department's inspector general.

The complaints allege that the council, which recommends fishery policies for the region, has organized or allowed illegal lobbying, misuse of federal grants, and other regulatory violations.

A key allegation is that the Westpac council improperly paid for and organized four meetings that advocated for three fishing-related bills introduced to the 2007 Hawaii Legislature: HB1848, SB1853 and HB1948.

"It is a violation of federal law for Wespac to engage in, or use, federal money to fund lobbying for state or federal legislation," the complainants said in their release.

Paul is joined in her complaint by Keiko Bonk, former Hawaii County Council member and campaign director for the Northwest Hawaiian Islands Network; Tina Owens, The Lost Fish Coalition director and member of the West Hawaii Fisheries Council; and Makaala Kaaumoana, vice chair of Hui Ho'omalu e ka Aina, a native fishing practices group on Kauai.

Bonk said she was at several Westpac-organized meetings where lobbying efforts were organized for the state legislation and that she told participants that she believed the activity to be illegal.

The Inspector General's Office couldn't be reached for comment yesterday afternoon.

Simonds, who was in a council meeting last night, did not respond to a request for comment via her staff.

Westpac's Executive Council said in a statement yesterday it found "the allegations and insinuations made in the June 20, 2007, media release distributed today against the Western Pacific Regional Fishery Management Council to be untrue."

In November 2005, the Oahu Game Fish Club and the Waianae Boat Fishing Club asked the Commerce Department's inspector general to investigate Westpac's behavior regarding fishing regulations for the Northwestern Hawaiian Islands, which have since been designated the Papahanaumokuakea Marine National Monument.

William Aila, a member of the fishing groups and Na Imi Pono, said the Inspector General's Office typically doesn't confirm investigations, but that he believes one is being conducted.

Hon. Adv. July 7, 2009

Report faults fisheries council

BY AUDREY McAVOY
Associated Press Writer

The investigative arm of Congress is recommending reforms for the Western Pacific Fishery Management Council, saying practices that limit public access to meeting minutes and other records are cause for concern.

The Government Accountability Office's recommendations were made after the agency spent months investigating allegations that council members misused federal funds to lobby lawmakers.

In a June report, the Government Accountability Office said it did not find evidence to support the allegations but recommended the council make changes to boost transparency and to reduce the chances the council will be accused of misconduct in the future.

The council manages fisheries in federal waters off Hawai'i and U.S. Pacific island territories. The National Oceanic and Atmospheric Administration, which oversees the council, has written to the GAO to say it agrees with the recommendations.

The congressional watchdog launched the investigation last year at the request of U.S. Rep. Henry A. Waxman, chairman of the House Committee on Oversight and Government Reform.

Waxman, D-Calif., cited allegations made by Hawai'i nonprofit organizations that the council improperly used federal funds to lobby lawmakers.

Public advocates have said they've had trouble obtaining minutes from the council, and a council member was forced to file a request under the Freedom of Information Act to get minutes.

The GAO's findings, released June 19, urged the council to adopt reforms that would allow the public to learn more about the panel and its decisions. Suggestions for the council included publishing reasons members recuse themselves from a vote and posting meeting minutes online as councils for federal fisheries off Alaska, Washington, Oregon and California do.

"We try to operate in a thorough and transparent manner and certainly some of the recommendations by the GAO will help the transparency of the way the council works," said Sean Martin, council chairman. "I think most if not all of the recommendations out of the GAO report are valid considerations for the council to take."

He said council officials have started following some of the GAO's recommendations and consulting with NOAA attorneys on others.

The GAO said the council should notify a NOAA attorney before meeting with federal or state lawmakers or when testifying before a legislative committee.

The council and other bodies that receive federal funds are prohibited from trying to influence legislation. They may, however, present technical or factual information to lawmakers if requested.

Tina Owens, director of the nonprofit Lost Fish Coalition, is among those who filed a formal complaint about the council to the Commerce Department inspector general. She's pleased with the findings, she said, but the council would have benefited from "deeper scrutiny."

"They came to some startling and quite damning conclusions against (the council) in terms of their complete lack of transparency," Owens said. "I would call this a huge victory."

Meanwhile, Rick Gaffney, a Kailua, Kona-based boat dealer and recreation consultant who was a council member from 2005 to 2008, said the probe was "incomplete."

He said he has doubts about whether the council will change.

"I don't think it will improve unless it gets a really massive slap on the wrist and I don't think the GAO does that," he said.

Gaffney said he turned down an opportunity to be reappointed to the council for another term because he felt the council "was failing fisheries in Hawai'i."

Star Bulletin
HAWAII'S OLDEST DAILY NEWSPAPER SINCE 1882

Sunday, November 13, 2005

OUR OPINION

Questionable acts warrant probe of fishery agency

THE ISSUE

Two fishing clubs have asked for a federal investigation of the fishery management council. A REPORT compiled for Oahu recreational fishing groups raises enough issues to support their call for an investigation of the federal agency that manages fisheries in Hawaii. Though the request to the U.S. Department of Commerce was initiated by just two organizations, the report -- through details of complaints and grievances from many quarters -- appears to show a pattern of questionable conduct as the agency sought to sustain fishing and other extractive industries in a marine reserve.

Hawaii's congressional delegation should press the department's inspector general to conduct a review. The matter should be of keen interest to Rep. Ed Case, who earlier this year introduced a resolution to establish the nation's first marine refuge to encompass the Northwestern Hawaiian Islands and surrounding seas. The fishing groups contend that the Western Pacific Fishery Management Council, which is supposed to balance preservation of ocean resources with commercial fishing interests, too often tips toward the industry. To protect the industry's stake, the groups say the council acted improperly in dealing with the Coral Reef Ecosystem Reserve in the northern islands.

AFTER PRESIDENT Clinton established the reserve in 2000, the fishery council attempted to have the newly installed Bush administration undo or alter the designation with an overly alarming claim that a reserve "could destroy virtually all other existing and potential fisheries in federal waters surrounding Hawaii."

The report's documents show that the council also enlisted the aid of Linda Lingle, then chairman of the state Republican Party, who initially echoed the council's view in a letter to the Commerce Department. Months later, however, Lingle retracted her letter, saying she had based her position on "less than a complete understanding of the issue."

The groups argue that the fishery agency has since resisted efforts to set any boundaries for fishing in the region's waters. They also point to incidences of conflicts of interest among council members "that might explain the behavior of that agency."

The report maintains that the agency issued false and misleading information to influence public opinion about the effects of establishing a sanctuary. Indeed, the state Department of Land and Natural Resources complained to the agency that its media productions "were not accurate and perpetuated a significant amount of misinformation."

Protection of the northwestern islands' ecosystem enjoys wide support in Hawaii. The state recently banned fishing and removal of natural resources in areas under its control. Hawaiian leaders, environmental groups, ocean experts, the public and the state's political leaders all advocate safeguards.

It appears that the fishery council -- whose proposed regulations for fishing in the region were soundly rejected by the National Oceanic and Atmospheric Administration last month -- is out of step.

UNITED STATES DEPARTMENT OF COMMERCE
The Inspector General
Washington, D.C. 20230

September 7, 2007

Ms. Christine Owens
[redacted]

Dear Ms. Owens:

This is in response to your on-line Freedom of Information Act (FOIA) request of July 23, 2007, for a report on the status of investigation regarding complaints submitted against the Western Pacific Fishery Management Council. We have received your notarized proof of identity dated August 17, 2007.

A search of records maintained by the Office of Inspector General has identified an open investigative file relating to this matter. Records maintained in an open investigative file must be withheld pursuant to exemption (b)(7)(A) of the Freedom of Information Act, 5 U.S.C. 552 (b)(7)(A), which exempts from disclosure records which could reasonably be expected to interfere with enforcement proceedings.

Your administrative appeal rights are explained in Appendix A, should you wish to request a review of this response. If you have any questions, please call Mary Offerdahl of my staff at 202-482-0242.

Sincerely,

Carolyn A. Croak
Deputy Counsel to the Inspector General

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I have also included a link to two Civil Beat Articles dated November 3, 2021 and November 4, 2021. In the articles are examples of the type of behavior that should serve as justification for Rep. Huffman's reforms. I would also like to point out on page 3 of the second article is a reference to "the council is currently under investigation again". Based on my previous experience, the Inspector General is likely not commenting on an open case.

The links are as follows:

https://www.civilbeat.org/2021/11/how-politics-and-lobbying-have-shaped-federal-fisheries-policies-in-the-pacific/

https://www.civilbeat.org/2021/11/wespacs-aggressive-effort-to-muscle-in-on-state-control-of-fisheries/

As evidenced by the ongoing investigation and well documented allegations, WESPAC has not implemented the recommendations made in 2009. Thus, the need for reforms.

Question 3. Mr. Aila, your statement regarding the NWHI lobster fisheries is that the stock after 25 years has not recovered. Was there a recent stock assessment of the NWHI lobster stock that showed the status of the stock as overfished? If so, please provide the committee a copy of that report.

Answer. In response to your question regarding a recent lobster assessment in the Papahanaumokuakea Marine National Monument. Since the creation of the Monument 20 years ago there have been many surveys of the marine resources. Many on an annual basis, except for 2020–2021 due to COVID. Significant numbers

of lobsters have never been reported. I am looking for an article which I had in my possession but cannot locate in time for this response in which National Marine Fisheries commented that 6 years post moratorium on lobster fishing in the NWHIS, the lobster numbers have not recovered. Should I be able to locate it soon I will send it to you. I am enclosing a Honolulu Advertiser article from December 2, 1992 which documents a sitting Council member's husband being fined for taking illegal sized lobsters and females with eggs (Attachment #6). In addition, the vessel used was leased from Jim Cook, another WESPAC council member. Reform has been needed for a long time. Thankfully the area is protected.

A8 Wednesday, December 2, 1992 The Honolulu Advertiser

$40,480 in lobster fines

Official's husband accused of illegal catch

By Stu Glauberman
Advertiser Staff Writer

The husband of a member of the regional council responsible for regulating lobster fishery areas has been fined $40,480 for illegally taking 1,470 lobsters from the Northwestern Hawaiian Islands.

National Marine Fisheries Service and state enforcement agents found the illegal catch of immature and egg-bearing lobsters aboard the fishing vessel Petite One operated by Edward Timoney.

Timoney's wife, Timm, is the newest member of the Western Pacific Regional Fishery Management Council, which is responsible for conservation and management of the lobster fishery.

The Timoneys lease Petite One from CKM Inc., a company that includes another council member, James D. Cook, also of Honolulu.

CKM Inc. was named with Edward Timoney in the federal government's Nov. 27 notice of violation, but neither Cook nor Timm Timoney was mentioned in the document. Timm Timoney was not on the fishing trip that resulted in the administrative civil action.

Edward Timoney and the vessel's owner have 30 days to respond to the allegations and penalty before the action becomes final.

Edward Timoney declined to speak with a reporter yesterday, and Timm Timoney did not return a call.

Martin Hochman, a Commerce Department lawyer, said federal fisheries agents checked the fishing boat's catch when it docked in Honolulu after a six-week fishing trip.

The vessel has a valid permit to take lobsters from the Northwestern Hawaiian Islands in the six-month season, which began in July.

The four-count charge against Edward Timoney and the vessel's owner states that they unlawfully kept 616 undersized spiny lobster tails, 292 undersized slipper lobster tails and 562 female lobsters carrying eggs, and failed to maintain an accurate logbook.

Cook said he would not comment on any aspect of the case.

Asked by a reporter if he owned the vessel involved, Cook said: "I really don't know. I have no comment."

Timm Timoney and Cook are two of four voting members from Hawaii on the council, which includes members from American Samoa, Guam, and the Northern Mariana Islands.

Kitty Simonds, the council's executive director, said it is not unusual for one council member to lease a vessel from another. She noted that Congress intended the regional fishery management councils to be made up of people in the fishing business.

Hochman said there have been instances of enforcement actions and civil violations involving council members on other regional councils.

Simonds said she did not believe the Timoney case would come up for discussion by the council, which is meeting this week at the Ala Moana Hotel.

Timm Timoney was appointed to a three-year term on the federal conservation and management council in August.

The government fined another Isle fisherman, John Myking, for unlawfully taking more than 300 lobsters in late September, Hochman said. Staff attorneys proposed a fine of $10,000, but it was later reduced to $7,500.

No live animals were landed in either of the two cases. The catch, when landed in Honolulu, consisted of frozen lobster tails.

The council's management program for the Northwestern Hawaiian Islands allows permit holders to take up to 438,000 animals a year. As of last month, 338,000 had been taken and the quota will not be filled in the final month of the season, according to staff biologist Robert Harman.

Harman said the recent seizures of immature and egg-bearing animals would not have an impact on the conservation program.

Question 4. Mr. Aila, you state in your testimony the need for increased accountability for WESPAC because of the inaction on the small boat fishery. Can you explain what you mean by that? Are you aware of the actions the Council took to enact closures, require log books, and other measures to manage fisheries?

Answer. Thank you for your question concerning the Councils inaction on the small boat fishery. I note that you pointed out the actions that the council has taken. You are correct in pointing these actions out. As someone who was there with others providing those recommendations to the Council, I have the unique history to make the following statement. "Although the council took these actions, it was the small boat fishermen who dragged them kicking and screaming to make those decisions". I have included newspaper articles that provide an accurate account of actions taken at the time and not obscured by recent revisions of the history.

Longline moratorium and limited entry program

- Three articles from 1989–1990 pushing the Council and State of Hawaii to limit the number of Longlines moving to Hawaii from the Gulf of Mexico (Attachments #7–11).

December 6, 1990 - thursday

New longliners banned

May force many boats to depart

By Sru Glauberman
Advertiser Staff Writer

An emergency moratorium that freezes the entry of new longline fishermen into Hawaiian waters was imposed yesterday by the federally sponsored Western Pacific Regional Fishery Management Council.

The action is the latest step in a long-simmering dispute between longtime local fishermen and recently arrived longliners.

Depending on how the details of the moratorium are worked out, the ban on new entries could actually force close to a third of the newly arrived longliners to leave the Islands.

The council voted unanimously to develop a three-year moratorium on new entries while experts study the overall impact of the wide-ranging longline fleet on tuna resources around the Islands.

While the language of the three-year halt is being written, a three-month emergency moratorium on new fishing boats will be in place. Eventually, the formal cutoff date could be as early as June 21, when first warnings went out, to Dec. 5, the date of yesterday's decision.

The earlier cutoff date would force as many as 47 of the roughly 152 longline boats currently operating here to relocate, officials said.

The council's action late last night came after hours of emotional public testimony, marked by occasional outbursts from fishermen on both sides of the issue.

Opinion appeared divided as to whether the proposed entry limit was warranted to protect the fishery.

Many who spoke expressed fears about the impact that continued fishing by a growing fleet of longliners. Others charged that exclusion from the fishery would ruin their businesses.

An overflow crowd of about 250 people showed up at the Dole Cannery for the meeting.

On one side of the debate were small-boat owners, longline longliners and charter-boat owners, who generally favored a moratorium. The other side was made up of recently arrived longliners — many of them

U.S. troops foil Panama police rebellion

Reuter photo

U.S. soldiers capture rebel police officer outside the National Police Headquarters.

GIs seize uprising leader in wake of prison escape

Advertiser News Services

PANAMA CITY — Hundreds of U.S. Army troops acted dozens of rebellious Panamanian police and their fugitive former police chief yesterday after a tense muzzle-to-muzzle confrontation that threatened to explode into violence.

One Panamanian was killed and one was injured, according to U.S. officials.

The action came after more than 100 well-armed Panamanian police and their leader, retired Col. Eduardo Herrera Hassan, burst through two undermanned U.S. Army roadblocks as they began a march on the National Assembly to present a set of hastily drawn grievances.

Herrera, a former police chief who was charged with plotting against the government six weeks ago, made a daring helicopter escape from prison Tuesday afternoon and took over the national police headquarters shortly after midnight. Herrera had moved from one Panamanian police station to another, attempting to elicit support among his former colleagues.

The U.S. intervention, which came at the request of Panamanian officials, averted what could have

See Panama, Page A5

ngliners: Panel imposes a moratorium

OM PAGE ONE

of Vietnamese ancestry — who were teamed with fleet owners and fish wholesalers against the moratorium.

When attorney Matthew Pyun, representing two seafood companies, said a moratorium was unwarranted because there was no data to support the need for one, he was applauded by some and booted down by other fishermen and women.

"Hold on here, fellows and ladies," said council chairman Bill Paty, who also chairs the state Land Board. "Let's not get into a shouting wrangle."

Paty opened the meeting by reporting that the number of Hawaii-based longliners had grown from 45 in 1987 to 152 today.

Longlining refers to the fishing gear, a long line suspended by surface floats so that multiple hooks dangle from it.

Paty said Hawaii-based longliners are dangling some 200,000 hooks, greatly increasing the capacity of the fleet in search of tuna and other species.

Several fishermen said they had brought petitions filled with signatures in support of an immediate three-year moratorium based on the June 21 cut-off date.

But Banglai Nguyenle said she mortgaged her home in May and borrowed money with partners to build a $283,000 fishing boat in Louisiana that won't be ready until next year.

"We invested our life savings in a longline vessel to fish here in Hawaii," she said. "That should be enough investment and commitment to satisfy the law," she said.

Mai McDowell said she represented 10 longline boats, only two of which would qualify under the June 21 control date.

William Aila said he had his own sad story. "I don't have $280,000 to invest in a boat," he said. "I have a 21-foot boat. I put $21,000 in it, but hey, I'm not catching enough fish now." Aila told council members, "Your job is to protect the resource."

But Luong Lam, who said he represented 50 Vietnamese fishermen, urged the council not to act hastily, even though it was "under tremendous pressure from local fishermen."

He noted that the Magnuson Fishery Conservation and Management Act, which establishes federal jurisdiction over fish in federal waters (and created the management council) prohibits the adoption of policies that discriminate between residents of different states.

Herman Nao, who described an incident when a longliner nearly hit his boat and ran over his line, said: "What's going to happen when these guys clean us out and just move out? What's my son going to catch? We gotta stop them."

Fishermen also complained that a "gentleman's agreement" worked out by Paty last year to reduce gear conflicts between longliners and offshore fishermen by keeping the longliners 20 miles out hasn't solved the problem. One fisherman suggested that longliners be kept 100 miles offshore.

The council will meet again today to discuss issues related to bottom fish and lobster.

December 6, 1990 - Thursday advertiser

Star bulletin Wed. Aug 30, 1989

Fishermen back plan to limit long-line fleet in isles

By Linda Hosek
Star-Bulletin

Three weeks ago Waianae anglers were ready to declare war on a new fleet of commercial fishermen who unofficially trespassed into local waters and hurt local catches.

But now fishermen islandwide want to join forces with the state's long-line fleet in an unprecedented effort to accommodate both sides — and conserve fish.

About 200 fishermen from Haleiwa to Hawaii Kai met last night in Waianae and endorsed a three-part plan that would limit the number of long-liners allowed in the state.

The plan, proposed by a committee of four Waianae fishermen acting independently from the state, also would ask for strict enforcement of the new drift net law to keep the indiscriminate netters out of state waters.

Committee members want the long-liners to help work out a limit and support a thorough ban of drift nets from Hawaii waters.

"This is something that's never happened before," said Glenn Nishihara, Hawaii Fishing Coalition president who moderated the meeting last night. "Let's utilize

> "We don't want the long-liners to compete with the pole fishermen. It's the equivalent of pro-baseball players playing on a little league team."
>
> **Dale Simmons**
> Charter boat skipper

The ad hoc committee, formed within the last two weeks, also addressed the conflict between the long-liners and small-scale fishermen in their plan.

The plan proposes to limit long-liners to big-eye tuna or to keep them 75 miles offshore to minimize competition with the small-scale fishermen, said Dale Simmons, committee member and charter boat skipper.

"We don't want the long-liners to compete with the pole fishermen," he said. "It's the equivalent of pro-baseball players playing on a little league team."

Most long-liners already use deep-water gear designed for big-eye tuna and stay well offshore, Simmons said. But the new fleet, which arrived a few months ago from the Gulf of Mexico, uses a shallow gear that catches yellowfin tuna and marlin, he said.

Sports and recreational anglers generally fish for yellowfin and marlin, putting them in conflict with the new fleet, he said.

State officials recently met with the new long-liners, who verbally agreed to stay at least 20 miles offshore to avoid conflicts with the small-scale trollers.

The agreement followed episodes of harassment in which some local anglers shot at long-line floats and cut fishing lines.

Several of the new fishermen, all of Vietnamese descent, said they didn't know about the local tradition in which long-liners stay offshore.

Simmons said the committee proposed limiting the long-line fleet to prevent it from increasing to 300 to 400, and from potentially depleting local tuna stocks.

The number of long-liners in the state has doubled in the past four years to about 60, with 14 boats arriving earlier this year from the Gulf. Hawaii has become attractive to long-liners because it has few regulations.

Simmons said he would like to limit the state's long-line fleet to its current number, with all current long-liners brought in.

Simmons said he would like to limit the state's long-line fleet to its current number, with all current long-liners brought in.

"We're striving for unity with the domestic long-line fleet," he said, adding the committee hoped to meet soon with the long-liners.

Waianae Rep. Peter Apo criticized the state's efforts to manage fishing, saying, "We have a crisis management system. We never do smart planning."

The committee formed in part because state officials had not moved fast enough for the Waianae fishermen, said William Aila, committee member and Waianae harbor master.

Simmons said he didn't expect long-line fishermen to agree with the committee's proposed 75-mile limit, but wanted to start with that distance.

He also said he hoped the long-liners would agree that vessels with drift nets should not be allowed into port for supplies.

New long-line boats out of luck

☐ The fishery panel bans trollers from isle fishing if they arrived yesterday

By Linda Hosek
Star-Bulletin

A regional council has approved an emergency moratorium banning new long-line fishermen from Hawaii waters.

But the decision was booed yesterday by one side of a rowdy fishing crowd who wanted the controversial measure to apply to fishermen who weren't here before June.

After a six-hour meeting at Dole Pineapple Cannery before about 250 fishermen, the Western Pacific Regional Fishery Management Council selected yesterday as the temporary date to begin the planned three-year moratorium, which still needs federal government approval.

Proponents of the earlier date said they were worried about their declining catches and incomes and asked the council to use June 21 as the starting point.

The earlier date would have cut about 47 boats from a licensed fleet of about 169, leaving fewer hooks to compete for the prized migratory fish.

But federal and regional biologists said data couldn't show that the long-liners were hurting the stocks and described the problem as primarily economic.

"The moratorium is good," said William Aila, Waianae harbor master and part-time fisherman who wants his son to carry on the family fishing tradition. "But the Dec. 5th date doesn't help me in the short term. I'll still be catching fewer fish."

While voting 10-1 to begin the moratorium yesterday, the council said it would try to prepare a case for the June 21 date, citing

See **LONG-LINERS**, Page A-6

LONG-LINERS: New arrivals can't fish here

Continued from Page A-1

the simmering long-line war with local trollers and reports of decreased catches.

The council has six months to propose an amendment, which must be approved by the U.S. Commerce secretary.

The council would have proposed the earlier date yesterday, but it didn't have enough data to justify excluding the 40 some boats from Hawaii's waters, said Bill Paty, chairman of the council and state land board.

Council biologist Robert Harman said there was some evidence of a decreasing catch rate, but it couldn't be attributed to long-line fishing in Hawaii. Harman said declining catches could result from overfishing in general, foreign fishing outside 200 miles, pollution and habitat changes.

He summed up the dispute as "Fortress Hawaii," in which fishermen chose to close the doors to newcomers to preserve their piece of the pie. "A limited-entry program won't protect the stocks," he said. "It's for economics."

The council agreed to set June 21 as a cutoff date if it ever decides to limit the number of long-liners who can fish in the region.

The meeting included more than three hours of public testimony in which daughters spoke up for fathers and fathers spoke up for sons.

Julie Do, a Moanalua High School student who arrived from Louisiana in July, called the June 21 date "unjust and wrong."

"It puts fishermen to a dead end," she said, speaking for her father who named his boat after her. "It takes away my father's dreams and stops me from accomplishing my dreams."

Do said her family left the Gulf Coast in May before the council had discussed the moratorium and arrived in July, spending thousands of dollars on the trip. She also said her father had contacted the state and wasn't told about a potential moratorium.

Jim Witten, a longtime Hawaii resident, said he was worried about his son, Jay, a commercial troller. "His investment is at risk," he said. "We're being fished out."

Not all local fishermen supported the moratorium. Jed Inouye, a fourth-generation fisherman now with Seafood Hawaii, said the moratorium would hurt fishermen, boat owners and suppliers.

"We gonna hurt, hurt, hurt," he said. "If you vote for the moratorium, you vote for high prices. Even the consumer will be hurt."

The council also agreed to allow fishermen who had invested in new boats before the June 21 date to participate in the long-line fleet.

Fishermen would have to prove that their intent was to fish in Hawaii. The council proposes to produce a plan at the end of the moratorium.

Gear conflicts surfaced in early 1989 after long-liners from the Gulf of Mexico began fishing off Waianae, competing with "weekend warriors" and sports fishermen. Part-time fishermen such as Aila have watched their catches drop as much as 50 percent in the past two years while the long-line fleet has tripled.

Locals trollers drop only a few hooks per boat and usually fish within 20 miles of shore. But long-liners use hundreds of hooks and can travel hundreds of miles into the ocean. After threats of violence and cut lines, long-liners informally agreed to stay at least 20 miles off shore.

Longline area closures

- Five articles from 1991–1992 pushing the Council to designate closed areas to longliners to stop the user conflicts occurring between longliners and small boat fishermen (Attachments #12–17).

A10 Thursday, December 12, 1991

Longliners warned of conflicts

By Jan TenBruggencate
Advertiser Kauai Bureau

The National Marine Fisheries Services has urged longline fishing boat owners not to bring their fishing lines near shore during a temporary lifting of a ban on inshore longline fishing.

Fisheries service regional director E.C. Fullerton, in a Dec. 3 letter to longline permit holders, warned that near-shore conflicts between long liners and anglers with smaller boats, which tend to emphasize trolling, could damage the interests of longliners in the future.

After severe conflicts, including gunshots at longline gear, the Western Pacific Fishery Management Council earlier this year established an emergency ban on longlining within 50 miles of Maui and Hawaii, and within 75 miles of Oahu and Kauai.

The council recommended to the secretary of commerce that near-shore waters be permanently closed to longliners. The permanent ban is expected to take effect in mid-January, said Kitty Simons, executive director of the Western Pacific Fishery Management Council.

The temporary emergency ban runs out Monday, and cannot be extended.

A number of local anglers have expressed fears that the larger longline boats will take advantage of the "window" in the near-shore fishing ban, and bring their gear in closer to shore.

Longlines consist of several miles of cable, from which numerous baited hooks are hung.

Fishermen on smaller boats say the longliners are capable of depleting fishing resources.

Roger Netzer, commodore of the Garden Island Trollers, said his group is anxious about conflicts during the holidays.

Bob Anderson, of the Hawaii Fishermen's Foundation, has filed an action in federal court, asking that longline gear be kept offshore.

Fullerton's letter to long liners noted that they are appealing to the fishery council to reduce the distance they must maintain from shore.

"If there are a large number

must maintain from shore.

"If there are a large number of gear conflicts during the holiday season, there will be intense pressure on the Council and the National Marine Fisheries Service to maintain the current closures or even increase them," Fullerton said.

"If longline fishing vessels are active in the areas close to shore, the chances of gear conflicts would be high. We would like to minimize this risk. We urge you to avoid areas of high concentration of non-longline vessels, such as the waters off Waianae and around fish aggregation devices. We also urge you not to set longlines in areas where you see other vessels using troll or handline gear," Fullerton wrote.

That may not be a problem, said Robert Harman, staff biologist with the Western Pacific Regional Fishery Management Council.

"I've talked personally to longliners and they have no intention to come in to the (close-to-shore fish aggregation) buoys," Harman said.

The fishery council will meet at the Pagoda Hotel from Monday through Wednesday in public sessions. One of the items on the agenda is a proposal that the council adjust the size of longline closure areas around the main Hawaiian Islands.

Navy plane finds fishermen, boat

Two Big Island men who failed to return from a weekend fishing trip were found safe aboard their boat and towed to Keauhou Bay yesterday, the Coast Guard said.

Fred Puou and Lorin Thompson left Keauhou aboard a 22-foot boat Friday night, but did not return as scheduled on Sunday, Coast Guard Lt. Brendan Frost said last night.

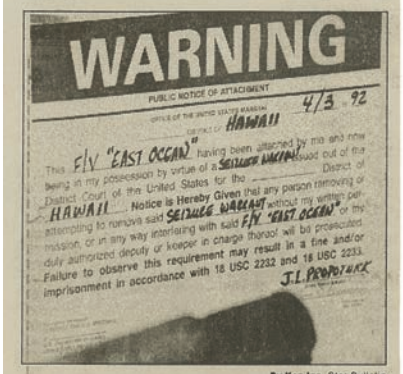
Coast Guard and Navy aircraft searched the area and a Navy P-3 Orion located the vessel, the Ehukai, on radar about 22 miles west of South Point at 10:25 p.m. Tuesday, Frost said. When a Coast Guard helicopter delivered a radio to the stricken boat about three hours later, the rescuers confirmed it was the pair they were looking for.

The Ehukai's engine and radio had failed, Frost said.

The Coast Guard cutter Washington, which was in the area on another mission, was diverted to the scene and

4/4/92 Sat. Hon. Star Bulletin

NEWSWATCH



By Ken Ige, Star-Bulletin

The U.S. Marshal's Office posted this sign on the door of the vessel East Ocean yesterday.

Investigated long-liner seized by feds

A Hawaii-based long-line fishing vessel was seized in Honolulu Harbor yesterday by federal officials, who said it was operating in waters closed to long-liners.

The East Ocean was reportedly observed fishing on at least four occasions within the restricted 75-mile zone around the Hawaiian islands. A forfeiture lawsuit was filed in federal court yesterday.

The seizure capped an investigation that spanned eight months.

The East Ocean's crew was not arrested.

Officials are also checking into allegations that they failed to keep or submit fishing log books or falsified log information.

Dec 12, 1991 Thursday Hon. Adv

Fishery council won't cut bait

No reduction in zone limits for long-line vessels

By David Waite
Advertiser Capitol Bureau

The Western Pacific Fishery Management Council decided yesterday not to ease its regulations that keep long-line fishing vessels at least 75 miles from Oahu and Kauai and 50 miles from all other islands.

Seafood wholesalers and dealers, and some long-line fishing boat captains, had asked the council to reduce "closure" distances to 25 miles around all islands.

At a fishermen's meeting Tuesday night, however, nearly 200 fishermen and their families showed up to protest any reduction.

The problem was compounded by the fact that the regulation imposing the 50- and 75-mile limits was only temporary and expired at midnight Monday.

Permanent long-line restrictions will not go into effect until mid-January.

Several people at Tuesday's meeting blamed the month-long lapse in restrictions in Hawaiian waters on "bureaucratic bungling" and "total ineptitude."

Ed Ebisui, one of three of the 11 voting members of the fishery council who attended Tuesday's meeting, said the 30-day gap in regulations was due to "some kind of administrative screw-up."

He said it comes at the worst possible time since prices for ahi and other local fish peak during the holidays.

The good prices will likely intensify competition between long-line boats and tollers and hand-liners, Ebisui said.

Several commercial and sports fishermen said if long-liners venture inside the former limits — even though the emergency regulations are no longer in effect — "gear conflicts" will occur.

That is a euphemism for the deliberate destruction of fishing equipment by a competing faction of the fishing community.

Waianae fisherman William Aila, who served as moderator Tuesday, got a show of hands from virtually everyone in the packed Pagoda Hotel meeting room when he asked how many others would be willing to "instigate gear conflicts" if the long-liners don't abide voluntarily by the former restrictions.

"We're not blowing smoke anymore," Aila said. "You (WESTPAC officials) back us up against the wall and we have no place else to go."

Aila and others said fish populations in Hawaiian waters have depleted rapidly ever since long-liners began showing up in large numbers in the mid-1980s.

3/17/92
STAR BULLETIN

Feds relax fishing rules for long-lines

By Gregg K. Kakesako
Star-Bulletin

The federal agency that controls Hawaii's fishing grounds voted today to relax the rules on long-line fishing vessels during winter months.

The Western Pacific Regional Fishery Management Council decided to allow long-line boats from October through January to fish closer to shore on t..e windward sides of all islands. The distances are 25 miles on the Big Island, 30 miles on Maui and Kauai, and 50 miles on Oahu.

Currently, long-line boats, which trail 30 to 40 miles of line with hundreds of hooks, are not allowed to fish within 75 nautical miles of Oahu and Kauai and 50 miles of Maui and the Big Island.

One fisherman with a smaller boat yesterday warned the Western Pacific Regional Fishery Management Council that if those big boats are allowed closer to shore, they will come into conflict with boats like his.

"Fishermen from Hanalei to Hilo have given me this message to pass on to you," said commercial fisherman William Aila of Waianae. "If you ... decide to reduce the closure area, there will be gear conflict."

To dramatize his case, Aila dumped a carton of floaters, fishing lines and other equipment used by long-line fishermen that he said was cut by trollers last year before the ban was passed.

In December, the fishery council voted 8-1 against a reduction in the ban to 50 miles off of all islands from May to September and 25 miles during the rest of the year.

The council is again discussing similar proposals. Its scientific committee said current boundaries are too large and have caused economic hardship for some long-liners.

Fifty-one of the 160 long-line vessels based here are inactive.

Guy Tamashiro, wholesale buyer for Tamashiro Market, said the current limits push long-line boats too far away from traditional fishing grounds. He said that reducing the boundary to 20 miles is a fair proposal. He said dealers cannot depend on part-time, hand-line and troll fishermen to consistently bring in high-quality fish.

Aila predicted that relaxing the restrictions would invite trouble. He added, "There are fishermen who are extremists. They are telling me that we don't have to take it out at the 20-mile limit, but we can take it out right at Pier 14."

Bufo Lujan, Guam's representative on the council, told Aila that he didn't appreciate his threats.

Aila replied: "This is not a threat, this will happen. I have my fingers on the pulse out there ... you have forced us."

The council is discussing other long-line fishing matters pending a vote.

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Long-line gear dumped at fishery meeting

By Stu Glauberman
Advertiser Staff Writer

A small-boat fisherman said he was representing the frustrations of others across the state when he dumped a pile of spliced long-line gear on the floor at yesterday's Western Pacific Fishery Management Council meeting.

William Aila Jr., a part-time troller, told council members that if they don't take small-boat operators' concerns into consideration, gear conflicts between small and large boat operators could erupt.

"We're trying to keep a lid on it," said Aila, who wore a T-shirt that said "Just Say No to Long Liners."

"There's a feeling of frustration out there. Our concerns aren't being met," said Aila, a Waianae harbormaster and vice president of the Hawaii Fishermen's Foundation.

Aila warned that tensions between small boats and longliners would escalate if the council amends regulations to allow longliners closer to shore.

"If the council forces it, then it shall be," he said.

"I do not appreciate threats," said council member Peter Barcinas of Guam.

Others complained that the small-boat operators had gone too far to sensationalize the gear conflict issue.

The council is trying to decide whether it should reduce the longline closure area around the main Hawaiian islands in response to longliners' claims that they are suffering economic hardship because of the restrictions.

After hearing testimony last night, the council is scheduled to make a decision today. It is meeting at the Ala Moana Hotel.

Under federal regulations adopted by the council to eliminate conflicts, longliners are prohibited from fishing within 50 miles of the Big Island and Maui County, and 75 miles of Oahu and Kauai.

Several council committees — including a so-called Select Committee made up of various fishery interests — were unable to come up with modifications to the prohibitions that appeal to both sides.

The Select Committee, headed by William Paty, who chairs the state land board, met three times without arriving at a recommendation.

Some members, including longline boat owner Sean Martin, favored seasonal changes in the boundaries to allow longliners in closer to windward shores during winter months.

Others including fishermen's association president Bob Endreson opposed any changes without data to show they are needed and monitoring to show they are being observed.

The council's Hawaii Pelagic Advisory Panel also was unable to come up with agreement on the issue, but some panel members representing longliners and seafood dealers argued that the boundaries should be moved in as close to 25 miles off shore. Trollers and hand line operators usually operate within 20 miles of shore.

The council's Scientific and Statistical Committee found that available catch data indicate the 50/75 closed area is "excessive."

"It is much larger than necessary to eliminate gear conflicts," said Samuel Pooley, an economist with the Honolulu Laboratory of the National Marine Fisheries Service.

That committee found that closures have had negative economic impact on longliners and caused the fleet to shrink.

Fifty-one of 160 longline vessels with Hawaii limited entry permits were inactive at the end of last year, according to Alvin Katekaru of the NMFS area office.

Longline vessel monitoring requirements

- Three articles from 1992 documenting efforts by small boat fishermen to get the Council to require this tracking system because of numerous reports of

violations including one of several successful prosecutions based on Vessel Monitoring Systems (Attachments #18–20).

3/20/92 Honolulu Bulletin

Satellite tracking system urged for long-liners

By Gregg K. Kakesako
Star-Bulletin

Hawaii's long-line fishing boats should carry devices that would enable law enforcement officials to track them using satellites.

That's the recommendation of the Western Pacific Regional Fishery Management Council, the federal agency that controls U.S. fishing grounds in the Pacific.

The council recommended the tracking system be required within 18 months.

Paul Stevenson, council chairman, said the panel will decide later whether to require the use of the system on other domestic boats, such as purse seiners, and foreign vessels fishing in U.S. waters.

"Many foreign fishing vessels visit ports in American Samoa, Guam and Hawaii to re-supply," Stevenson said. "We've always suspected that they conduct some unauthorized fishing here, but have caught very few.

"With an automated system, the enforcement agencies will know more about their activities."

Jim Cook, a long-line fisherman and a council member, said he is "100 percent in favor of it."

However, he said there may be a few among the state's 100 long-line fishermen who oppose the requirement because of "big brother-type reasons."

William Aila, a small commercial fisherman, praised the council's actions saying, "it should be implemented as soon as possible.

"We know they (long-line fishermen) are cheating. We can see their lights out on the horizon every night."

The system is endorsed by the Coast Guard and the National Marine Fisheries Service.

William Aila

Eugene Proulx, special agent in charge of enforcement for the fisheries service, said it could cost anywhere from $5,000 to $7,500 to equip a boat with the system.

Council staff member Bob Harman said the cost of the system will depend on how it is used.

"A lot has to do with the way the system is set up since it can be used either as a one-way or two-way communication system," Harmon said. "In the two-way format, the system could be used by the fishermen to communicate with fish brokers or his family."

The system is expected to cost fishermen an additional $200 a year once installed.

Stevenson said the council in the past has hesitated to require the use of these tracking systems because of the cost.

But he added: "The system might seem expensive, but when you compare their cost to the cost of sending out Coast Guard boats and planes on patrols, the automated systems seem like the best way to enforce our fishery laws."

A6 Wednesday, March 18, 1992 The Honolulu Advertiser

Longline-tracking still pending

Federal officials support proposal before fishery council

By Stu Glauberman
Advertiser Staff Writer

Pressure is mounting to require owners of longline fishing boats to install satellite-tied tracking devices that would enable Coast Guard and fishery enforcement officers to get a fix on the vessels.

The Western Pacific Regional Fishery Management Council yesterday heard support for the idea from Coast Guard and National Marine Fisheries Service officials who see vessel-tracking systems as the answer to enforcement and gear-conflict issues.

The federal council did not act to require the devices, which are expected to sell for $7,500 apiece when they become available. However, council members expressed interest in requiring longliners to have them at a later date.

The issue came up as part of a five-hour discussion on whether to relax restrictions on longliners to mollify owners of smaller boats who said 50- and 75-mile closure areas around the Hawaiian Islands are too distant for them.

Operators of trolling, handline and sport fishing boats, which generally remain within 20 miles of shore, questioned the longliners' hardship, and opposed modifications that don't require vessel-tracking devices for longline vessels.

Under a compromise approved yesterday, longliners eager for easier access to bigeye tuna will be allowed to fish about 25 miles off windward shores of all islands from October through January.

The Coast Guard will draw a straight-line boundary to approximate a 25-mile distance from all windward shores, but in effect, the boundary will keep longliners about 35 miles from Kauai, 40 to 50 miles from Oahu, and 30 miles from Maui. Longlines will be allowed as close as 21 miles from Hamakua and South Point on the Big Island.

The rest of the year, longliners will have to remain outside the previous boundary, 50 miles around the Big Island and Maui County and 75 miles around Oahu and Kauai.

Council member James Cook, of Pacific Ocean Producers, said many longliners welcome the idea of having vessel-tracking systems, but don't appreciate pressure being applied as part of the council's strategy.

Rear Adm. William Donnell, Hawaii-based commander of the 14th Coast Guard District, said the tracking systems would help to keep poachers out of U.S. waters.

Donnell offered to locate the system's shore station in the Coast Guard's operations center. That would ensure the secrecy that fishing boat owners seek to guard their whereabouts from competitors.

Eugene Proulx, special agent in charge of enforcement for the fisheries service, said a vessel-tracking system would augment airborne fishery surveillance, which is limited to nine hours a week.

In other action, council members voted to begin a study of potential social, economic and biological effects of allowing longline vessels fishing outside the 200-mile exclusive economic zone to land fish in Hawaii after the vessel-tracking system becomes operational.

Locally based longline boat seized

4/4/92 SAT — Hon. Advertiser

By Stu Glauberman
Advertiser Staff Writer

A Hawaii-based longline fishing vessel with a string of alleged violations has become the first to be seized by federal authorities for fishing in an area closed to long-liners.

The 54-foot East Ocean, owned by East Ocean Inc., a Hawaii corporation, was seized yesterday morning by special agents from the National Marine Fisheries Service and U.S. Marshal's Office.

The Coast Guard assisted the agencies in documenting allegations of fishing inside the Main Hawaiian Islands longline closure area.

Authorities also alleged that the boat's owner failed to keep or submit fishing logbooks required under fishery laws, or falsified the records. The vessel's crew was not detained.

The seizure warrant, resulting from investigations over the past eight months, was issued by U.S. Magistrate Daral Conklin.

Advertiser photo by Richard Ambo

Marine surveyor Dennis Smith seals a hatch on the East Ocean yesterday. Smith's firm, Marine Surveyors and Consultants Ltd., was appointed custodian of the vessel.

Dean Owren, of the NMFS's regional office for law enforcement, said the seizure was the first under rules designed to eliminate gear conflict by keeping pelagic long-liners from fishing within 75 nautical miles of Oahu and Kauai.

Other regulations are in place to keep long-liners from clashing with recreational and small-boat fishers off the other islands.

The East Ocean is alleged to have fished within the closed zone south of Oahu on several occasions.

Owren said other penalties had already been levied against the boat.

Paul Stevenson, chairman of the Western Pacific Regional Fishery Management Council, which develops federal fishery management regulations for Hawaii, said the seizure should serve as a warning.

"This should send a strong message to the fishing community and general public that (the laws) should not be taken lightly and that violators will be caught," Stevenson said.

Bob Endreson, president of the Hawaii Fishermen's Foundation, said the action underlines the need for closer surveillance of long-liners.

"This gives more credence to having observers and transponders put on these boats," he said.

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I have many other examples of the Council acting on fisheries management issues but only upon prompting and pressure from small boat fishermen and conservationists.

Question 5. Ms. Coit, in her statement, recognizes that allowing Councils to develop and tailor regional solutions is a basic tenet of the MSA. Regional problems require regional solutions. In the Western Pacific, the regional issues include subsistence fishing and underserved indigenous communities. There is a need to explicitly acknowledge that one size doesn't fit all and that MSA needs to be flexible. Do you agree with this approach? If not, please explain why.

Answer. I do agree with Ms. Coit that one size does not fit all, and that Councils should be allowed to tailor regional solutions to regional issues. Having said that I would point out all the examples listed in the preceding pages where this has happened. However, WESPAC's initial reaction was/is to favor the large commercial fleets and the financial interests of a few of its Council members. For example, Jim Cook and Sean Martin profited from refurbishing Shrimp boats from the Gulf of Mexico to longline gear and their financial interests were enhanced by the sale of fishing supplies to these new arrivals. Therefore, it was counter intuitively from a financial position to limit the number of longline permits issued. It also became apparent that the same individuals would suffer economic impacts by having their own longline vessels having to fish further due to the area closures which is why they opposed these measures at the time but gladly take credit for them presently.

Thank you for the opportunity to provide clarity to the history of how and why WESPAC took actions at the time.

Please feel free to contact me should you have any further questions. I fully support the amendments proposed by Rep. Huffman and supported by Rep. Case.

Mr. HUFFMAN. Next, we will hear from Dr. Willy Goldsmith, Executive Director of the American Saltwater Guides Association.

The Chair recognizes Dr. Goldsmith to testify for 5 minutes.

STATEMENT OF DR. WILLY GOLDSMITH, EXECUTIVE DIRECTOR, AMERICAN SALTWATER GUIDES ASSOCIATION, OCEANSIDE, NEW YORK

Dr. GOLDSMITH. Chair Huffman, Ranking Member Young, and members of the Subcommittee, thank you for the opportunity to

provide views on H.R. 4690, the Sustaining America's Fisheries for the Future Act.

My name is Willy Goldsmith, and I am the Executive Director of the American Saltwater Guides Association. I hold a Ph.D. in fishery science, have extensive experience in collaborative recreational fisheries research, and I am an avid recreational angler myself.

The American Saltwater Guides Association represents fishing guides, small fishing-related businesses, and conservation-minded anglers who believe that long-term fishery and ecosystem health are the core foundation of a strong recreational fishing economy.

As a resource-first, not sector-first group, we recognize that effective management of all users is paramount to success, and the recreational sector is no exception. For many of the most coveted recreational species, such as blue fish, black sea bass, and dolphin fish, the recreational sector is responsible for the dominant share of harvest. Effective fisheries management, therefore, must include effective management of and accountability for recreational anglers.

The Magnuson-Stevens Act is the cornerstone of effective marine fishery stewardship of the United States. The law's emphasis on implementing science-based catch limits, mandating accountability across sectors, and requiring prompt rebuilding have led to significant successes. However, our fisheries continue to experience pressing challenges that the law in its current form does not adequately address.

I am grateful to Chair Huffman and Congressman Case for their efforts to engage diverse stakeholders through a nationwide listening tour in order to better understand some of the most urgent challenges facing our nation's fisheries.

H.R. 4690 includes numerous provisions to strengthen our Federal fisheries management framework. Today, I will speak to three particularly vital elements of the bill that will help promote long-term fishery health—improving recreational data, protecting forage fish, and bolstering fishery resilience under changing ocean conditions.

H.R. 4690 makes critical strides toward improving catch data from the recreational sector. Such information is valuable not only for ensuring recreational accountability, but also for providing the highest-quality data for input into stock assessments.

The Federal Marine Recreational Information Program is the primary tool for assessing recreational catch and effort at annual and regional scales. But, as numerous additional recreational data collection programs continue to be developed, it is imperative that these diverse sources of information are held to the same high standard.

H.R. 4690s establishment of Federal guidelines and a strategic plan to improve recreational data are invaluable steps toward maximizing accuracy and precision on a national scale while recognizing the specific data collection challenges and needs associated with various fisheries and regions.

In the meantime, managers should advance a precautionary approach that accounts for the ongoing recreational data uncertainties and limitations to minimize the risk of overfishing.

Species targeted in commercial and recreational fisheries depend on healthy marine ecosystems to thrive. Robust populations and widespread abundance of the forage fish, on which many predators rely, is a key ingredient to fishery success, and can lead to spectacular sights, such as the arrival of bluefin tuna to feed on immense schools of menhaden in the shadow of New York City this past fall. Establishing a national framework for conserving these species is sorely needed.

H.R. 4690, along with H.R. 5770, the Forage Fish Conservation Act, would accomplish this goal through requiring managers to consider the needs of predators and setting forage fish catch limits, and prohibiting the development of new fisheries for as yet unmanaged forage species prior to evaluating whether management is needed.

Changing ocean conditions are significantly altering the marine environment as we know it, and fishery stakeholders are acutely observing the impacts of a warming ocean. The most readily visible consequences to fishermen and managers alike are shifting stocks, which represent a significant management challenge as species move across the jurisdictional boundaries of regional councils.

A less evident but even more challenging impact is that of climate change on fisheries' productivity, the ability of species to successfully feed, grow, and reproduce. H.R. 4690 makes crucial progress toward implementing climate impacts into management, directing resources toward pressing research needs, and providing a framework to ensure that management authority aligns with where on the coast a fishery occurs.

Ultimately, the best insurance policy against the often uncertain impacts of climate change is a precautionary approach to management that promptly addresses overfishing, and aggressively acts to rebuild stocks. By requiring councils to end overfishing immediately, improving oversight of rebuilding progress, and strengthening conservation provisions in the event of a failed rebuilding plan, H.R. 4690 positions our nation's fisheries to be resilient to climate impacts and provide long-term benefits to fishermen and the nation as a whole.

Thank you for the opportunity to share my thoughts, and I look forward to your questions.

[The prepared statement of Dr. Goldsmith follows:]

PREPARED STATEMENT OF WILLY GOLDSMITH, PH.D., EXECUTIVE DIRECTOR, AMERICAN SALTWATER GUIDES ASSOCIATION

The Magnuson-Stevens Fishery Conservation and Management Act (MSA) is the cornerstone of effective marine fisheries stewardship in the United States. The law's emphasis on implementing science-based annual catch limits, mandating accountability across sectors, and requiring prompt rebuilding have led to numerous successes, recovering nearly 50 fish stocks since 2000 while resulting in over 90% of stocks with known status not experiencing overfishing.[1] Despite these victories, our fisheries continue to experience numerous challenges that MSA in its current form does not adequately address. These include improving fishery data collection, implementing management that considers and safeguards marine ecosystems in their entirety, accounting for the ongoing and increasing impacts of climate change, and ensuring fishery compatibility with emerging ocean uses. H.R. 4690, the Sustaining America's Fisheries for the Future Act, includes numerous provisions that promote

[1] NOAA Fisheries. 2021. Status of Stocks 2020: Annual Report to Congress on the Status of U.S. Fisheries. https://www.fisheries.noaa.gov/national/sustainable-fisheries/status-stocks-2020.

the integration of these much-needed elements into our federal fisheries management framework.

The American Saltwater Guides Association (ASGA) represents fishing guides, small fishing-related businesses, and conservation-minded anglers who believe that long-term fishery and ecosystem health are the core foundation of a strong recreational fishing economy. Our members rely on abundant fish stocks, which drive angler opportunity and ultimately participation, to make a living. As a resource-first, not sector-first, group, we recognize that effective management of all users is paramount to success, and the recreational sector is no exception. The impact of the recreational sector, both ecologically and economically, cannot be understated. In 2019, recreational anglers in the continental United States and Hawaii took nearly 200 million fishing trips, catching almost one billion fish and releasing two-thirds of them,[2] and the recreational fishing economy supports nearly half a million jobs and generates $75 billion in sales impacts.[3] For many of the most coveted recreational species—bluefish, black sea bass, and dolphinfish, for example—the recreational sector is responsible for the dominant share of harvest.[4] Effective fisheries management, therefore, must include effective management of and accountability for recreational anglers.

My views on the bill focus on the elements that are particularly important to guides and anglers, which include: (1) improving recreational fishery data; (2) conserving forage fish; (3) effectively protecting marine habitats; (4) promoting fishery resilience under changing ocean conditions; and (5) enhancing transparency and stakeholder participation in fisheries management.

Recreational Fishery Data

Section 406 of the Sustaining America's Fisheries for the Future Act makes critical strides toward improving catch data from the recreational sector. Such information is valuable not only for assuring recreational accountability but also for providing the highest quality data for input into stock assessments—particularly in cases when recreational anglers are the dominant source of fishing mortality. The Federal Marine Recreational Information Program (MRIP) is the primary tool for assessing recreational catch and effort at annual and regional scales. But as numerous additional recreational data collection programs continue to be developed, it is imperative that these diverse sources of information are held to the same high standards. Section 406's establishment of federal guidelines to improve recreational fishing data, along with a strategic plan—developed in partnership with non-federal managers and anglers themselves—are invaluable steps toward maximizing data accuracy and precision on a national scale while recognizing the specific data collection challenges and needs associated with various fisheries and regions. In the meantime, managers should advance a precautionary approach that accounts for ongoing recreational data uncertainties and limitations to minimize the risk of overfishing.

Related but not limited to recreational data is H.R. 4690's emphasis on expanding electronic technologies research and development, as reflected in Sections 402 and 404 of the bill. The use of new technology to monitor commercial and recreational fishing activity, streamline reporting and data collection, and observe ocean conditions can increase the quality and timeliness of the data used to inform management while minimizing costs in the long-term, reflecting National Standards 2 and 7 of MSA.[5] Working directly with recreational and commercial fishery participants to design, develop, and test these new tools is imperative, and this priority is reflected both in H.R. 4690 and in Section 305 of H.R. 59, the Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act.

Forage Fish Conservation

Species targeted in commercial and recreational fisheries depend on healthy marine ecosystems to thrive. Robust populations and widespread abundance of the forage fish on which many predators rely is a key ingredient to fishery success, and can lead to spectacular sights such as the arrival of bluefin tuna—and the anglers

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[2] NOAA Fisheries. 2021. Fisheries of the United States 2019. https://media.fisheries.noaa.gov/2021-05/FUS2019-FINAL-webready-2.3.pdf?null=.

[3] NOAA Fisheries. 2021. Fisheries Economics of the United States 2021. https://media.fisheries.noaa.gov/2021-09/FEUS2017-final-v1.3.pdf.

[4] NOAA Fisheries. 2021. Fisheries of the United States 2019. https://media.fisheries.noaa.gov/2021-05/FUS2019-FINAL-webready-2.3.pdf?null=.

[5] NOAA Fisheries. National Standard Guidelines. https://www.fisheries.noaa.gov/national/laws-and-policies/national-standard-guidelines (National Standard 2 requires the use of the best scientific information available. National Standard 7 directs managers to minimize costs and avoid unnecessary duplication where practicable. 16 U.S.C. 1851(a)(2 and 7)).

who pursue them—to feed on immense schools of menhaden in the shadow of New York City this past fall. Some regional fishery management councils have been proactive in developing safeguards to protect forage fish, such as the Mid-Atlantic Fishery Management Council's adoption of its Unmanaged Forage Omnibus Amendment in 2016.[6] However, a national framework for conserving these species is sorely needed. Section 508 of H.R. 4690 and H.R. 5770, the Forage Fish Conservation Act, would accomplish this goal through requiring managers to consider the needs of predators in setting forage fish catch limits and prohibiting the development of new fisheries for as-yet unmanaged species prior to evaluating whether management is needed (and implementing such management if warranted).

Habitat Protection

Changing ocean conditions and our efforts as a nation to respond to climate change—including the development of offshore wind energy—underscore the ongoing and increasingly urgent need to protect the important marine habitats that support our fisheries. While regional fishery management councils are required to describe and identify Essential Fish Habitat when developing management plans, MSA in its current form is vague in its directives and does not provide sufficient safeguards to ensure that the many activities in our increasingly crowded ocean do not harm key habitats and jeopardize the vitality of marine resources. Section 502 of H.R. 4690 strengthens the mandate to protect essential habitats from these activities, explicitly requiring that they avoid adverse impacts (or minimize and mitigate unavoidable impacts) and establishing a regulatory framework for the process.

While the need to confront the impacts of climate change is urgent, the emerging offshore wind industry also poses challenges in its impacts to the stock assessment process that is at the core of successful fisheries management. The 17 active wind energy lease areas along the east coast, which combined equal roughly the size of Delaware,[7] substantially overlap with numerous fishery-independent surveys that evaluate everything from plankton to finfish to right whales, necessitating the development of new survey approaches and designs.[8] Section 409 of H.R. 4690, which mandates a cooperative agreement between NOAA Fisheries and the Bureau of Ocean Energy Management (BOEM) to fund additional stock assessments and research to offset offshore wind development impacts, is key to ensuring that commercial and recreational fisheries can thrive in a changing ocean landscape.

Fishery Resilience Under Climate Change

Fishery stakeholders are acutely observing the impacts of a warming ocean. The most readily visible consequences to fishermen and managers alike are shifting stocks: The center of biomass for black sea bass, a commercial and recreational mainstay along the east coast, has shifted northward about 200 miles over the past half-century,[9] while cobia, historically a south Atlantic species, is projected to have more suitable summer habitat off the coast of New Jersey than any other state forty years from now.[10] Such shifts represent a significant management challenge as species move across the jurisdictional boundaries of regional fishery management councils, raising concerns about the representativeness of the council tasked with managing a given species or stock. Section 105 of H.R. 4690 addresses this concern directly by providing a framework to ensure that management authority aligns with where on the coast a fishery occurs.

A less observable but even more challenging outcome of changing ocean conditions are impacts on fisheries productivity—the ability of species to successfully feed, grow, and reproduce. In the Gulf of Maine, which is warming faster than 99% of the world's oceans, a failure to account for the negative impact of increasing temperature on Atlantic cod spawning success in setting management measures has contributed to the stock's continued depressed state.[11] In the case of northern

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[6] Mid-Atlantic Fishery Management Council. 2017. Unmanaged Forage Omnibus Amendment. https://static1.squarespace.com/static/511cdc7fe4b00307a2628ac6/t/5a0b49b053450ab00cbe4e46/1510689203283/20170613_Final%2BForage%2BEA_FONSI%2BSigned.pdf.

[7] Bureau of Ocean Energy Management. Renewable Energy: State Activities. https://www.boem.gov/renewable-energy/state-activities.

[8] NOAA Fisheries Northeast Fisheries Science Center. June 22, 2021. Offshore Wind Energy and NOAA Survey Mitigation Updates. Presentation to the New England Fishery Management Council. https://s3.amazonaws.com/nefmc.org/1c.-NEFSC-Offshore-wind-update-June-2021.pdf.

[9] NOAA Fisheries and Rutgers University. OceanAdapt. http://oceanadapt.rutgers.edu/.

[10] Crear. D.P., et al. 2020. Contemporary and future distributions of cobia, *Rachycentron canadum*. Biodiversity Research. https://doi.org/10.1111/ddi.13079.

[11] Pershing, A.J., et al. 2015. Slow adaptation in the face of rapid warming leads to collapse of the Gulf of Maine cod fishery. Science 350(6262): pp. 809–812. https://doi.org/10.1126/science.aac9819.

shrimp, its population in the Gulf of Maine has collapsed due in part to predation by a climate change winner—longfin squid—as it expands northward.[12]

Readily and consistently incorporating what is known about climate impacts into management while directing resources toward pressing research needs is imperative. Broadly, Title I of H.R. 4690 makes tremendous strides in this regard, requiring councils to include climate change considerations in fishery management plans, adding climate impacts to research priorities for NOAA Fisheries scientists, and establishing a Climate-Ready Fisheries Innovation Program to develop new approaches to managing fisheries in a changing ocean.

Ultimately, the best insurance policy against the often-uncertain impacts of climate change is a precautionary approach to management that promptly addresses overfishing and aggressively acts to rebuild stocks. By requiring councils to end overfishing immediately, improving oversight of rebuilding progress, and strengthening conservation provisions in the event of a failed rebuilding plan, Section 504 of H.R. 4690 positions our nation's fisheries to be resilient to climate impacts and provide long-term benefits to fishermen and the nation as a whole.

Transparency in Fisheries Management

As a final thought, both H.R. 4690 (Section 304) and H.R. 59 (Section 302) make meaningful strides toward improving the transparency and accountability of regional councils, including the ability for the public to attend meetings remotely and access recordings after the fact. One silver lining of the COVID-19 pandemic has been the increased ability of stakeholders to observe and participate in management as regional councils converted meetings to virtual formats. Maintaining this accessibility post-pandemic will help to ensure that the nation's fishery management process is a truly public one.

Thank you for the opportunity to submit written testimony on the topic of MSA reauthorization.

Mr. HUFFMAN. Thank you very much, Dr. Goldsmith.

We will now hear from Mr. Shannon Carroll, Associate Director of Public Policy at Trident Seafoods.

The Chair recognizes Mr. Carroll for 5 minutes.

STATEMENT OF SHANNON CARROLL, ASSOCIATE DIRECTOR OF PUBLIC POLICY, TRIDENT SEAFOODS, SEATTLE, WASHINGTON

Mr. CARROLL. Thank you, Mr. Chairman.

My name is Shannon Carroll. I am speaking on behalf of Trident Seafoods. I am proud to have spent the past 7 years working the North Pacific Council process where science, transparency, and good governance are primary drivers of policy actions.

But before I go into my testimony, I do want to correct something that was said on the record during the last panel that was categorically false from my perspective, and that is that Trident and others in the Bering Sea pollock fleet are exceeding their bycatch limits of salmon and halibut.

The document that was added to the record does not support this statement and, among other inaccuracies, conflates several fisheries and regions into one. The Bering Sea pollock fishery operates under a hard cap implemented by the National Marine Fishery Service, and the agency closes the fishery when the bycatch limits are reached. We would be shut down before exceeding any limit.

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[12] Richards, A.R., and M. Hunter. 2021. Northern shrimp *Pandalus borealis* population collapse linked to climate-driven shifts in predator distribution. PLoS One 16(7). https://doi.org/10.1371/journal.pone.0253914.

I will note that Chinook bycatch in the Bering Sea pollock fishery has been reduced by 89 percent when comparing this year's numbers to its peak in 2007, that every vessel in the pollock fishery is required to have 100 to 200 percent observer coverage, and that the scientific evidence study does not point to bycatch as a driving factor in lower salmon productivity across Alaska.

And I will certainly be responding with a written response to further flesh out those points.

Moving on, though, I do want to acknowledge and express appreciation for the work of Congressman Young, who was not only instrumental in framing what I view as one of the most successful conservation statutes ever written, the Magnuson-Stevens Act, or Young-Studds Act, he has been a constant champion for Alaska and our nation's seafood industry since the passage of that legislation 45 years ago.

I also want to acknowledge the recent passing of Trident's founder, Chuck Bundrant, and note that the values upon which he founded our company—community partnership, stewardship, and a genuine desire to forge a sustainable Alaska seafood industry—are still at the very core of every decision we make today. We are heavily invested in the long-term sustainability of marine resources and ecosystems.

The successful management framework created by the Magnuson Act is precisely why we have the confidence in investing hundreds of millions of dollars over the next several years into projects that modernize our aging infrastructure, and achieve better utilization, environmental performance, and jobs for the next generation.

My written testimony includes more than I can go into here, so I would like to focus my remarks today on one primary point, and that is that the regional stakeholder-driven framework of the Magnuson Act has been a remarkable success, and any reauthorization bill should, first and foremost, do no harm to that structure.

Since 1976, Congress has set clear priorities through the National Standards framework, empowering the eight regional councils to utilize their local expertise to balance the National Standards in ways that account for unique regional conditions, and this regional approach is one of the centerpieces of the Magnuson Act's enduring success.

That success is easy to quantify. Each year, over 2.2 million metric tons of ground fish, one-third of the wild commercial harvest in the United States, are harvested in the North Pacific. And that supports fishery dependent harvesters and communities, and provides affordable protein to consumers across the United States.

Equally important, over the past four decades, not a single Alaska ground fish stock has been overfished or subject to overfishing. The Magnuson Act has not only empowered fishery managers to sustainably manage individual species; it has also given regional councils the flexibility to implement ecosystem-based management measures, adapt to changing environmental conditions, and minimize bycatch.

In my written testimony, I detail several of the management measures that the North Pacific Council has undertaken to adapt to climate change, protect habitat, and minimize bycatch. I highlight these actions not only to demonstrate what is possible under

the current law, but to also note the fact that those actions involved a transparent public process with many opportunities for stakeholder engagement. Again, this is a fundamental feature of the Magnuson Act.

And it is here that my primary concern with the H.R. 4690 exists. Rather than empower the councils, the proposed legislation contains mandates that will undermine the regional council framework. Many of the proposed changes will create extreme uncertainty, produce unfunded mandates, increase potential for litigation, and divert highly limited resources. From my perspective, this means the bill's passage would be worse than keeping the status quo.

The core elements of successful fisheries management—surveys, monitoring, data collection, and research—are in constant jeopardy due to decreasing or stagnant funding. Implications of losing funding for this work include uncertainty in annual catch limits, more conservative quotas, less tax revenue in coastal communities, decreased food security, and fewer data and tools to understand ecosystem and climate interactions.

And I will be honest, we still have work to do with respect to improving fishery performance, adapting to rapidly changing environmental conditions, and improving stakeholder engagement and inclusivity, but it is profoundly important to ensure that any new requirements don't come at the expense of the work at hand or other measures that have made the Magnuson Act so successful.

Thank you.

[The prepared statement of Mr. Carroll follows:]

PREPARED STATEMENT OF SHANNON CARROLL, ASSOCIATE DIRECTOR OF PUBLIC POLICY, TRIDENT SEAFOODS

Chairman Huffman, Ranking Member Benz, Dean of the House Congressman Young, and Members of the Committee—thank you for the opportunity to testify today. My name is Shannon Carroll. I have the privilege of leading fisheries and science policy priorities and Alaska public affairs for Trident Seafoods. I live in Girdwood, Alaska. I am a former commercial fisherman, with a background in conservation, natural resources, and fisheries law. I am a current board member on the North Pacific Research Board, a state advisor on the Pacific States Marine Fisheries Commission, and former member of the North Pacific Fishery Management Council's Advisory Panel. Above all else, I consider myself a conservationist, and I am proud to have spent the past seven years working in the North Pacific Fishery Management Council process, where science, transparency, and good governance are primary drivers of policy actions.

Trident was founded in 1973 as a single crab catcher and processing boat in the Bering Sea. It has grown over time to become one of the largest vertically integrated seafood companies in North America. To this day, we remain a private, family owned company, that reinvests our earnings back into our operations and the development of new products and markets to keep wild Alaska seafood competitive in a global seafood market. We have a multi-generational view, and no exit strategy. I want to acknowledge the recent passing of our founder, Mr. Chuck Bundrant, and note that the values upon which he founded the company—community partnership, stewardship, and a genuine desire to forge a sustainable Alaska seafood industry that benefits all stakeholders—are still at the core of every decision we make today. It is why I am proud to work for this company.

Trident has primary processing plants in ten coastal communities in Alaska, adjacent to our fisheries, as well as secondary processing plants in Washington, Georgia, and Minnesota and in important markets for wild Alaska seafood around the world (Germany, Japan, China, Latin America). Each of our Alaska facilities are in remote fishery-dependent communities, inaccessible by road, where we are integral to the health of the community and economy. We process nearly every major commercial fishery species caught in waters off Alaska and serve a diverse range

of harvesters throughout Alaska—from small setnet skiffs to large catcher vessels. We recognize the particular importance of serving family fishing operations that rely on income from their local fishery to sustain year-round household needs. Our experience is that it takes a mix of species, gear types, and big and small harvesters to be able to crew primary processing operations for shoulder seasons, which are typically unprofitable times to run but critical to our smaller and local harvesters. Trident also owns and operates its own fleet of harvesting and support vessels, including four catcher processors, fifteen trawl catcher vessels, six crab catcher vessels, and various tender and freight vessels. We are committed to the partnerships that we have with the communities within which we operate, the more than 1,000 independent harvesters who depend on us to provide a competitive market, and our more than 8,000 employees worldwide.

Likewise, due to our vertically integrated structure, we serve an essential role in getting sustainable, healthy, certified, and traceable U.S. wild-caught seafood to consumers worldwide. In short, we are heavily invested in the long-term sustainability of marine resources and ecosystems and have made these investments because of the successful management framework created by the Magnuson-Stevens Fishery Conservation and Management Act (MSA).

Overview

Having spent much of my career working in fisheries, conservation, and government, I view the MSA as one of the most important and successful conservation statutes ever written. It has been the foundation for sustainable fisheries management in the United States for more than four decades. The unique and successful regional council structure has empowered direct stakeholders and created management measures tailored to the unique characteristics of vastly diverse fisheries across the United States. It has put science at the center of the decision-making process and insulated scientific determinations from political interference. It has reduced bycatch, improved accountability and transparency, and provided flexibility for managers to adapt to changing ocean and climate conditions. It has provided for development of area-based conservation measures, including measures in the North Pacific that close over sixty-five percent of the EEZ to some or all fisheries in order to achieve ecosystem goals.

As an Alaskan resident, I am especially proud of the contributions made to this public policy success by my home state. Forty-five years ago, Congressman Don Young teamed up with Congressman Gerry Studds to sketch out the framework for a new federal fisheries law. Alaska Senator Ted Stevens initiated a parallel process in the U.S. Senate with his Washington State counterpart, Warren Magnuson. The resulting legislation was a truly unique and visionary approach to resource management, one that recognized the importance of regional decision-making, stakeholder involvement, and balancing the difficult trade-offs inherent in fisheries management. Decades later, when legislators sought to strengthen the MSA and put conservation more firmly at the heart of the statute, it was the 'Alaska model' that guided the reauthorization processes. The North Pacific Fishery Management Council's success in preventing overfishing and requiring managers to follow science-based catch limits became the new national standard. The 1996 reauthorization required all Regional Fishery Management Councils to end overfishing and rebuild overfished stocks. The 2006 reauthorization required Annual Catch Limits and Accountability Measures for all fisheries and ensured that it would be the Councils' Scientific and Statistical Committees that would establish strict catch limits based on the best available science.

Adherence to these key tenets of sustainable fisheries management have consistently served the North Pacific region well. In more than four decades, not a single Alaska groundfish stock has been overfished or subject to overfishing. This has ensured not only that our region's unique marine ecosystems remain healthy, but also that our fisheries-dependent sectors and communities are able to thrive. Today, over 2.2 million metric tons of groundfish are harvested in the North Pacific each year, worth approximately $2.2 billion in first wholesale value and supporting approximately 90,000 jobs. As a strengthened Magnuson-Stevens Act has helped extend the 'Alaska model' to more U.S. fisheries, overfishing rates have declined and overfished stocks have been able to rebuild. Specifically, as of September 30th—when NOAA Fisheries last updated Congress on the status of fish stocks managed under federal fishery management plans—47 previously overfished stocks had been rebuilt, and rates of overfishing nationally were near record lows. Today, thanks to the Magnuson-Stevens Act, our nation's fisheries are healthy, we have experience with tools to address emerging conservation or management challenges, and our fishing and seafood sector supports 1.7 million jobs. We are the global standard. Members of the subcommittee: this is what success looks like.

Which brings us to the legislation before us today. I want to thank all Members who have taken an interest in marine fisheries policy and are seeking to strengthen our existing federal laws. I know that these are good-faith efforts. Mr. Chairman, the process you have undertaken to gather stakeholder input, region by region, has been commendable and appreciated by the fishing industry. Thank you.

Given the success of our existing federal fishery management system, I believe one rule above all else should govern the subcommittee's approach to legislation that amends and reauthorizes the Magnuson-Stevens Act. That rule should be: first, do no harm.

Unfortunately, despite what may be the best of intentions, as currently drafted H.R. 4690, the Sustaining America's Fisheries for the Future Act, poses significant risks to our world-leading federal fisheries management system. Similarly, as currently drafted H.R. 5770, the Forage Fish Conservation Act, although also well intentioned, would create significant uncertainty in numerous fisheries, and could pose a particular threat to our region's Alaska pollock fisheries—which account for more than one-third of total federal fishery landings. Although I do not seek to provide a comprehensive analysis of these bills in my testimony, I hope my comments below will assist Members as they review these legislative proposals, assess whether they merit the support of this subcommittee, and consider potential changes to the drafts as currently written.

Sustaining America's Fisheries for the Future Act

Chairman Huffman's H.R. 4690, introduced on July 26th, is a sweeping MSA reauthorization proposal. It aims to advance reforms targeting five distinct areas, all critical importance—climate change; fishing communities; public process and transparency; fisheries science and data; and healthy ecosystems and improved fisheries management.

In doing so, however, H.R. 4690 too often departs from the core strength of the MSA and its National Standards framework, namely the compact between the federal government and the regions. Since 1976, Congress has set clear priorities and expectations through the National Standards framework. Experts at NOAA Fisheries have given those priorities and expectations specific meaning through guidance and rulemakings that provide an evolving roadmap for Council actions. Until now, however, the eight Regional Fishery Management Councils have been far more than mere functionaries implementing the will of federal policymakers. Their autonomy, stakeholder-driven decision-making processes and regional expertise have been a central feature of the MSA framework. Accordingly, they have been afforded flexibility to meet the National Standards in ways that also meet regional needs and account for unique regional conditions. This balance is a centerpiece of the MSA's enduring success.

Too often, H.R. 4690 presumes to start from an entirely different premise: that the autonomy and bottom-up approach of the Regional Fishery Management Councils is in fact a problem to be fixed. The resulting reauthorization blueprint would weaken the Regional Council framework, and in so doing make our nation's federal fishery management system less durable and robust. Although some of H.R. 4690's provisions have the potential to win broad support, taken together this legislation appears to reduce management flexibility, upend region-specific solutions, create uncertainty, and impose additional costs and regulatory burdens on the management system and those who rely on it.

Title I of H.R. 4690 provides one such example. In the North Pacific we are on the front lines of climate change, and it is already a ubiquitous reality in our region's marine environment. Our Council and our stakeholders recognize this, and because our investments and businesses depend on long-term access to a sustainable resource, the Council, the Alaska Fisheries, Science Center, and stakeholders have confronted this reality to the extent that science, data, and funding allows. Here is a short, and by no means exhaustive, list of recent and ongoing Council actions to incorporate climate factors into the Council decision making process:

- **Council Ecosystem Policy:** ensures that ecosystem considerations are incorporated into the analysis and development of all fishery management measures;
- **Bering Sea Fishery Ecosystem Plan:** includes a Climate Change Taskforce that has a five-year work plan with the primary purpose to "facilitate the Council's work toward climate-ready fisheries management that helps ensure both short- and long-term resilience for the Bering Sea." The goal of this project is to evaluate the vulnerability of key species and fisheries to climate change and to strengthen resilience in regional fisheries management;

- **Alaska Climate Integrated Modeling Project:** this project describes and projects responses of the Bering Sea ecosystem—both the physical environment and human communities—to varying climate conditions. It connects research on global climate and socioeconomic projections to regional circulation, climate enhanced biological models, and socio-economic and harvest scenarios. This effort informs managers of the risks of climate change on fish and fisheries and enables the evaluation of a range of adaptation strategies; and
- **Annual Ecosystem Status Report:** provides an annual overview of the climate and oceanography conditions to stock assessment authors, the Council, and public, in order to allow for those factors to be incorporated into stock assessments.

The list above is in addition to multiple fisheries and ecosystem surveys conduction by NOAA, and the rigorous, precautionary, and science-driven approach to setting harvest limits that includes detailed analysis and a public process to test and review potential climate-related impacts on target stocks and the broader ecosystem. An example of swift action in response to changing ocean conditions occurred in 2018 with marine surveys that year detecting an extreme decrease in abundance of Pacific cod in the Gulf of Alaska. The decline was linked to North Pacific hot spots, a sudden and acute marine heatwave and threat referred to as "the blob" at the time. The science-based Total Allowable Catch (TAC) setting process and marine mammal forage protections led to a swift closure of the directed fishery for the year. It was supported by regional stakeholders who have long been engaged with our system of TAC-setting.

A final example is one of a proactive and novel action in anticipation of changes in geographic range of important commercial species. Faced with increasing evidence of persistent decline in multi-year sea ice extent, the North Pacific Fishery Management Council recognized the potential for rapid change in the Arctic ecosystem. They took action to ensure any new fishing opportunity in the portion of our EEZ not already subject to commercial fishing would be appropriately regulated, and with input from Arctic community residents. In 2009, the North Pacific Fishery Management Council adopted an Arctic Fishery Management Plan explicitly closing federal waters north of the Bering Strait to commercial fishing unless and until sufficient science and management measures are in place to support doing so in a sustainable manner. This action preceded and helped to support a multinational approach to prevent overexploitation of fishery stocks and their habitats as waters open in the Arctic. We will increasingly need to consider proactive fishery management plan amendments to govern responsible access to species important to commercial and recreational fisheries that are moving due to changes in water temperatures or their traditional habitats.

By enumerating examples of the many actions that the North Pacific Fishery Management Council has taken to address climate change and its related effects, my objective not only to show what is possible under current law, but also to highlight the fact that all the above listed initiatives involve a transparent public process with many opportunities for stakeholder engagement. As currently drafted, Title I takes a different approach. Rather than empower the Councils, it contains prescriptive mandates that will consume Council time, divert resources, and in the case of my region and others already well advanced in this area, distract from the climate tasks at hand. Section 102(c) would require the *Secretary* to "assess the vulnerability of fish stocks within each Council's geographical area of authority to climate change," "notify each Council of the vulnerability of fish stocks within such Council's geographical area of authority," and "make recommendations to each Council for measures to conserve and protect such fish stocks." This runs directly counter to an approach consistent with the MSA's current framework, which would direct and empower the *Councils*—working with their respective Science and Statistical Committees, Plan Teams, and Fishery Science Center—to lead such efforts and be accountable for the results. This is occurring now in the North Pacific under the efforts described above. Similarly, the Section 102 provisions that mandate detailed new assessments related to climate impacts in all Fishery Management Plans and Plan Amendments are redundant and overly prescriptive, given approaches that are already underway, including the use of annual stock assessments to track and respond to climate impacts.

Title III, Section 305 contains concerning language that would limit stakeholder engagement by mandating that the Secretary of Commerce appoint at least one individual to each Council who does not have a financial interest in matters before the Council. The Councils are already governed by comprehensive recusal regulations that prevent direct financial conflicts by Council members. This provision may

sound good on the surface, but the concern is that the theme of the provision seems to erode one of the core principles of the MSA and its framers, which is that direct stakeholders and those with expertise in the fisheries at issue are best positioned to contribute to the management and long-term health and sustainability of our fisheries. This provision would prevent knowledgeable Council members from asking probing questions, providing expertise and first-hand perspective, and conducting invaluable outreach that builds credibility in the process. The result will be a lack of qualified candidates that are willing to serve and a degradation of the quality, credibility, and thoroughness of the management decisions. Finally, there are already adequate conflict of interest and recusal safeguards in place. NOAA recently went through an extensive public process to clarify and revise its policy directive on recusals and conflicts of interest, and the final product appropriately balances the needs of transparency, fairness, and stakeholder engagement.

Also of concern are provisions in Title V, which, among other things, delete the practicability language from the current law. One cannot ignore the realities of implementing such provisions, creating the potential to throw U.S. fisheries into chaos and protracted litigation. Take Section 503, for example. This Section amends National Standard 9, which requires that conservation and management measures "minimize bycatch," but removes the existing qualifying language "to the extent practicable." The existing language of National Standard 9 is not a "loophole" as some have erroneously asserted. Rather, it is a recognition of the realities of fisheries and fisheries management. Incidental catch is a feature of all fisheries—whether they be commercial or recreational—and regardless of the gear type that is used. The requirement that bycatch be minimized "to the extent practicable" acknowledges this fact—just as National Standards 5, 7, 8 and 10 require that managers consider efficiency in the utilization of fishery resources; minimize costs and avoid unnecessary duplication; minimize adverse economic impacts on fishing communities; and promote the safety of human life at sea "to the extent practicable."

There can be no question that a new and unqualified National Standard 9 would create chaos in our nation's fisheries, with the potential for both positive and negative implications for actual bycatch trends. If Congress makes a deliberate and considered departure from a requirement that Councils minimize bycatch "to the extent practicable," by what measure would Councils or the Secretary judge whether a fishery has "minimized" bycatch? One extreme would be to require the cessation of all fishing activity. Another would be to consider any reduction in bycatch—no matter how negligible—is sufficient. At a minimum, the result is uncertainty for fishery managers as they attempt to balance the ten national standards, uneven application across fisheries and regions, litigation, and an upending of decades of established case law.

Before we create such significant instability, it must be asked whether the current language is inadequate in giving the regional councils the tools to minimize bycatch. From my experience in the North Pacific Fishery Management Council, the current language is meeting the intent of the proposed language. Since 2015, when I first started working in the Council process, reduction of incidental catch has been one of the top priorities of the Council. Among other bycatch-related efforts, in 2015, the Council took actions that have reduced halibut bycatch in the flatfish sector by 25 percent, and it is poised to secure further reductions through an abundance-based approach at its upcoming meeting. Last month, the Council took final action on a cooperative management structure for the Bering Sea/Aleutian Island (BSAI) Pacific cod trawl catcher vessel fishery, that will effectively reduce halibut incidental catch limits by 25% and Bristol Bay red king crab incidental catch by 80% when combined with the existing management measures that reduce limits when biomass is low. With hard cap measures in place that result in fishery closures when reached, fleets are incentivized to take actions within their control to minimize risk of reaching the cap given uncertainty and factors beyond their control that could result in an unanticipated spike in incidental catch.

Incidental catch management is about more than hard caps as actual catch numbers are often well below cap levels. Our Council has implemented several cooperative programs that have given the fleet tools to make major gains in reducing incidental catch. In the Bering Sea/Aleutian Island pollock catcher-processor fishery—which is among the highest scored certified fisheries in the world—all vessels pay for two independent human observers, who carefully record not only total catch of the target species but also all incidental catch that occurs, including a complete census and genetic sampling of all salmon catches. Through the Pollock Conservation Cooperative, extensive gear and technological innovations such as underwater cameras, salmon lights, and salmon excluders have been funded by industry, improving pelagic trawl technology to exclude more non-target species. Fishery participants also pay to access and share detailed historical and current

spatially explicit catch data across the entire fleet and for analysis of these data to help inform time and area fishing decisions to avoid predicted high rates of interaction with incidentally caught species.

As part of regulatory Amendments to the BSAI Fishery Management Plan, Incentive Plan Agreements are in place to reduce salmon incidental catch at all levels of pollock and salmon abundance. A key component of these Agreements is the use of near real-time data to inform incidental catch "hot-spot" closures, whereby vessels are prohibited from fishing in areas of known high salmon abundance as they change throughout the season. As a result of all these measures, and pollock harvesters' ongoing investment in technology and information to improve bycatch avoidance, for many years more than 98 percent of the catch in the BSAI Alaska pollock fishery has been pollock. These are the kind of successes that should be recognized and scaled up as we all continue to pursue fisheries that minimize bycatch to the extent practicable.

Similar concerns arise with respect to Section 502. The habitat areas of particular concern (HAPCs) process under the MSA's existing Essential Fish Habitat provisions have served a vital purpose. In many instances they have been a catalyst for Councils to establish new science-based conservation measures to protect and sustain some of the most important and vulnerable habitats in our oceans. Rather than build on this success, however, Section 502(a)(3) requires fishery managers to "take action to minimize and mitigate any adverse effect of [any] action on—(aa) the habitat area of particular concern; [and] (bb) the species for with respect to which the habitat area of particular concern is designated." The absence of qualifying language in this Section raises the very real possibility that no balancing would occur and courts would determine fishing activity to be impermissible if any adverse impact of any kind on HAPCs or the species for which they were designated is a consequence.

Finally, and more broadly, I am concerned that many of the changes proposed by H.R. 4690 will either create unfunded mandates or divert highly limited resources. **Funding for the core elements of successful fishery management—surveys, monitoring and data collection programs, research, and staffing—is a zero-sum game, and all these core elements are in constant jeopardy due to decreasing or stagnant funding.** The implications of losing funding for this core work includes increased uncertainty in annual catch limits—resulting in more conservative quotas and less fishery dependent data collection—and fewer tools to integrate management resiliency into management decisions. In balancing the need for new requirements for Councils and the Secretary to carry out, one must consider whether the new requirements will come at the expense of other measures that have made the MSA so successful for the past forty-five years.

Forage Fish Conservation Act

The forage fish provisions of H.R. 4690—together with Congresswoman Dingell's free-standing bill, the Forage Fish Conservation Act—seek to impose special requirements on a subset of marine fisheries. In order to do so, they require the Secretary of Commerce to define "forage fish" within six months of enactment. In establishing a new definition of "forage fish", the legislation would require the Secretary to "consider factors including whether a species covered by such a definition, throughout such species' life cycle—(1) is at a low trophic level; (2) is generally small-to intermediate-sized; (3) occurs in schools or other dense aggregations; (4) contributes significantly to the diets of other fish, marine mammals, or birds; and (5) serves as a conduit for energy transfer to species at a higher trophic level".

Underlying this legislation is an important recognition that the health of target species should not be the only goal of fishery management—broader ecosystem considerations are also critical. I completely agree, and it is in recognition of this obligation that the North Pacific Fishery Management Council has developed detailed regional ecosystem plans that inform all fishery management decisions. The Council has also chosen to consider forage fish as ecosystem component species in the North Pacific groundfish fishery management plans, which by definition means directed fishing is not allowed. These designated forage fish species include smelt, capelin, sand lance, lanternfish and krill. The Alaska Fisheries Science Center provides assessments of the health of these species or species groups even though directed fisheries are not allowed.

This successful approach has been developed and implemented under the existing Magnuson-Stevens Act and done through regional, transparent, and public processes. The challenge posed by the proposed legislative changes is that a single definition of "forage fish" will be required, and that definition will form the basis upon which new protections will be mandated. The reality, however, is that there is no definition that will satisfactorily demarcate "forage fish" from "target species" across

every region. This is because nearly all species are prey to larger predators during their life cycle and thus provide energy transfer up the food chain. Alaska pollock, for example—by far the largest commercial species by volume fished in the United States—satisfies all five of the criteria that are provided to inform the Secretary of Commerce in establishing a new definition of "forage fish." Alaska pollock (1) is at a low trophic level; (2) is generally small- to intermediate-sized; (3) occurs in schools or other dense aggregations; (4) contributes significantly to the diets of other fish, marine mammals, or birds; and (5) serves as a conduit for energy transfer to species at a higher trophic level.

If this legislation as drafted were to be enacted, the amount of data, research, analysis, and funding needed to fulfill this mandate would likely cripple the ability of regional councils and NOAA to carry out their other functions. Rather than artificially segment certain fisheries by creating a new national category of "forage fish," the subcommittee should find ways to encourage the more rigorous application of ecosystem-based management approaches already adopted in the North Pacific and other regions to identify, monitor, and protect forage fish.

Conclusion

Thank you again for the opportunity to testify on these important matters. I again urge support for effectively resourcing and implementing core research programs and management capabilities long-recognized as foundational to adaptive, responsible fisheries management, and to enable continuous improvement in how councils meet and balance competing objectives within MSA National Standards. I look forward to continuing to work with Members of the subcommittee, and I am available to answer any questions you may have about my testimony.

Mr. HUFFMAN. Thank you, Mr. Carroll.

And let me just say, the document I entered into the record is pretty hard hitting. It takes Trident to task on a number of things. So, if you do have different information or want to offer a point-by-point rebuttal to that, I would welcome that. I am sure the Committee would welcome that. And, if you want to provide that to us supplementally in writing, that would be fantastic.

[The information follows:]

SUPPLEMENTAL TESTIMONY SUBMITTED FOR THE RECORD BY MR. CARROLL

TRIDENT SEAFOODS CORPORATION
Seattle, WA

November 24, 2021

Hon. Jared Huffman, Chairman,
Hon. Don Young, Acting Ranking Member,
Subcommittee on Water, Oceans, and Wildlife
Committee on Natural Resources,
1324 Longworth House Office Building,
Washington, DC 20515

Dear Chairman Huffman, Ranking Member Benz, Dean of the House Congressman Young, and Members of the Committee:

Please accept this written follow up to statements made and a document added to the record by the Chairman during the November 16, 2021 Subcommittee on Water, Oceans, and Wildlife legislative hearing on H.R. 59, H.R. 4690, and H.R. 5770. Trident Seafoods appreciates the opportunity to provide a response given our commitment to science-based management and responsible fishing practices, and our sincere concern for the health of communities impacted by sharp declines in salmon abundance in two major Western Alaska river systems. I respectfully request that this response be entered into the hearing record.

I participated in the November 16 hearing in good faith to contribute to an important ongoing dialogue regarding fisheries conservation law in the United States. I am stunned to instead be reacting to use of the hearing as a platform to help advance a misinformation campaign against my employer and one of the most intensely monitored and responsibly managed fisheries in the world.

The Chairman alleged that pollock trawl vessels, including those owned and operated by Trident, "are far exceeding their bycatch limits of salmon and halibut, leaving small fisheries and Alaska Native fishing communities struggling." As I noted in my oral testimony during the hearing, this is a false statement that contradicts NOAA Fisheries data and publicly available reports.[1]

An authorless and error-laden memo[2] was also entered into the record in support of this statement included inaccurate and out of context information. We completely reject the unvetted document, which, together with the Chairman's comments, accuse Trident of acting unlawfully and irresponsibly, and imply we have no regard for conservation or for the health of Western Alaska communities. Nothing could be further from the truth.

Bycatch is rigorously managed

Many companies operate in the Bering Sea pollock fishery, the nation's largest fishery. Neither Trident nor the pollock fleet have exceeded their salmon or halibut bycatch limits in either the Bering Sea or the Gulf of Alaska. **In fact, they are operating well below their limits in both regions**. Both the Bering Sea and Gulf of Alaska pollock sectors operate under hard caps for halibut and salmon, with an abundance-based trigger further reducing Chinook salmon hard caps in the Bering Sea fishery. Note that there is very little halibut bycatch in the pollock fishery, so the comments and record submission about halibut bycatch appear to conflate the pollock sector with the flatfish bottom trawl catcher-processor fishery[3] in which Trident does not operate.

All hard caps are implemented by the National Marine Fisheries Service (NMFS). The agency closes fisheries when Prohibited Species Catch (PSC) bycatch limits are reached so they are not exceeded. PSC species in North Pacific groundfish fisheries include salmon, halibut, crab, and herring; none are allowed to be retained for sale. Bering Sea pollock fisheries all have one or two federally trained independent observers onboard to monitor all fishing activity. Every Chinook salmon is retained and counted under controlled oversight for accurate reporting and to support the strong vessel-level accountability measures in place in this fishery. This public infor-

[1] NOAA Fisheries, Fisheries Catch and Landings Reports in Alaska, https://www.fisheries.noaa.gov/alaska/commercial-fishing/fisheries-catch-and-landings-reports-alaska.

[2] See Attachment 1 for detailed response to the memo added by Chairman Huffman.

[3] While Trident does not participate in the Bering Sea flatfish sector, it should be noted they are also managed under a hard cap, which cannot be exceeded.

mation is tracked by NMFS in-season managers and reported weekly on the NMFS website.[4]

In addition to hard caps, Bering Sea pollock fisheries are required to operate under Incentive Plan Agreements (IPAs) to promote salmon bycatch avoidance (through contractual incentives) at times when hard caps are not at risk of being reached. The IPA contracts also all include agreement to impose and adhere to rolling hot spot area closures based on real-time data, and other reporting requirements. **These measures are among the most innovative globally and have been effective: Chinook bycatch in the Bering Sea pollock fishery has been reduced by around 89% since its peak in 2007. They come at great expense to our industry, but we understand the importance and are committed to their continuation**.

All Bering Sea pollock cooperatives submit reports to the North Pacific Fishery Management Council, annually.[5] Likewise, the North Pacific Council receives updated genetic information on Chinook and chum salmon bycatch annually. This is critically important because not all bycaught Chinook or chum salmon is from the United States. Annual genetic and age sampling enables us to understand the impacts of salmon bycatch on salmon runs in specific regions of the United States, like villages in coastal western Alaska.

Science shows bycatch isn't the reason for declines

More broadly, I am concerned that the statement made furthers unreasonable expectations regarding the implications of reducing bycatch. Science demonstrates that bycatch is not in any way a significant contributing factor to declining salmon abundance in Western Alaska. Even if all bycatch could be stopped, there is no scientific reason to expect these salmon stocks would then rebound.

Using genetic tools and modeling, NMFS and Alaska Department of Fish and Game scientists have estimated how many of the incidentally caught salmon would have returned as adults to spawn. Based on this work, the latest assessment (2017) showed <2.5% impact on aggregate coastal Western Alaska Chinook runs and <1% on Middle/Upper Yukon Chinook runs. The 2019 genetic work demonstrated that out of the total number of chum bycatch in the Bering Sea pollock fleet, 57% was of Asian origin (predominately hatchery fish), 16% was from coastal western Alaska, and 0.3% was from Middle/Upper Yukon.[6] The MSA requires that Councils use the best available scientific information to make decisions, and the comprehensive data provided on an annual basis to the public and the Council on these topics is staggering but necessary to ensure informed and scientifically based decisions are made consistent with the national standards. Trident urges use of scientific information and evidence in both decision-making for Federal fisheries and in discourse about changes to the MSA.

Drivers of salmon productivity declines may be due to several other factors that are the current focus of state salmon scientists and research organizations (like Arctic-Yukon-Kuskokwim Sustainable Salmon Initiative (AYK SSI)), warranting further analysis of system change and ecosystem dynamics. We need to put resources into this research specifically for Alaska salmon. We have seen unprecedented sea ice loss in recent years and temperatures are increasing both in-river and in the ocean, specifically in the nearshore environment. A better understanding of these drivers is critical to forecast runs and salmon health. Specifically, we need more research on the life cycle of salmon species in the freshwater, nearshore, and marine environments, and the effects that environmental changes are having on salmon throughout their life cycle. Trident has advocated for this work and funded significant salmon research through the Pollock Conservation Cooperative Research Center. We not only contribute financially to marine research but also support it through our operations platforms. Our future depends on detecting and appropriately responding to ecosystem changes.

I empathize with subsistence users in Western Alaska, and while I can never fully know the pain and sense of loss that they are feeling or their connection to the resource and culture, I appreciate what they are saying and am aware of the importance of continuing to further reduce incidental catch of Chinook and chum in the Bering Sea pollock fishery. However, the implication that the Council and industry have done nothing, and that the pollock fleet's bycatch is responsible for declining runs, is false. In addition to misleading Subcommittee Members and the public, it

[4] See footnote 1.

[5] Available here: https://www.npfmc.org/cooperative-reporting/.

[6] See Bering Sea Salmon Bycatch Update North Pacific Fishery Management Council, September 2021, available here: https://www.npfmc.org/wp-content/PDFdocuments/bycatch/BeringSeaSalmonBycatchFlyer.pdf.

distracts from the efforts and research that are needed to determine factors driving lower salmon productivity in some regions.

Actions are working—and need to support sustainable, healthy fisheries for all

The Chairman also made statements with respect to the regional councils "doing nothing" on bycatch. However, the facts and data do not support this. In the North Pacific, bycatch has been on the agenda at nearly every meeting since I began working in the Council process in 2015. Among other bycatch-related efforts, in 2015, the Council took actions that have reduced halibut bycatch in the flatfish sector by 25%, and it is poised to secure further reductions through an abundance-based approach at its upcoming meeting. As recently as last month, the Council took final action on a cooperative management structure for the Bering Sea/Aleutian Island Pacific cod trawl catcher vessel fishery, that will effectively reduce halibut incidental catch limits by 25% and Bristol Bay red king crab incidental catch by 80% when combined with the existing management measures that reduce limits when biomass is low.

More broadly, this sequence of events starkly illustrates why we believe fishery management plans should be developed in-region through a transparent and robust review process rather than through an outside, centralized body that simply cannot develop the depth of knowledge needed to distinguish valid from invalid information in making informed decisions on all fisheries management and conservation actions nation-wide.

As noted in my written and oral testimony, Trident is heavily invested in ensuring that the nation's Regional Fishery Management Council process supports—to the extent that it has the authority—sustainable, healthy fisheries and ecosystems for all stakeholders, and that it is transparent and fair for all stakeholders. We have consistently supported management programs that reduce bycatch, increase accountability, and improve stability for coastal communities and independent harvesters. We have invested millions into filling gaps left by inadequate funding for science and research, including supporting efforts to conduct high seas salmon surveys, hatchery/wild salmon interaction studies, and gear modifications. These are issues upon which members of this Subcommittee should be aligned, and Trident welcomes the opportunity to work with you to achieve our shared objectives.

Thank you,

SHANNON CARROLL,
Director Fisheries Development and Alaska Public Affairs

See Attachment

ATTACHMENT

Pollock Trawlers – Who Are Expected To Oppose The Basic Equity And Conservation Improvements In H.R. 4690 - Are Threatening Food Security In Native Alaskan Communities

SUMMARY: Pollock factory trawlers operated by big commercial fishing companies like Trident and American Seafoods – and represented by lobbying organizations like the At-Sea Processors Association – are catching the salmon and halibut that Alaska Native fishing communities require for cultural and nutritional sustenance.

In 2021 so far, the At-Sea Processors Association's members* have harvested/caught nearly 160,000 salmon as bycatch, leaving less and less for communities that rely on and directly target salmon. Halibut, sablefish, crabs, and numerous other species are also caught and subsequently discarded, with broad ramifications on those stocks and ocean ecosystems.

Despite the consequences of these practices, this bycatch is legal because the trawler industry has captured its regulatory body, the North Pacific Fishery Management Council (NPFMC). Despite urgent calls for help from salmon and other fishermen, the federal fishery management has failed to take any meaningful action to address the damaging practices of the trawler fleet.

In October, NPFMC rejected proposals to reduce bycatch or even to add more native voices to its panel, and instead voted to authorize a study one council member characterized as "redundant." By maintaining the status quo, NPFMC 's actions benefit commercial seafood giants like Trident at the expense of fishery sustainability, Alaska Native fishing communities, and small salmon, crab, and halibut fishers.

** This figure includes all At-Sea Processors Association member vessels except for the Northern Hawk, the vessel operated by the Coastal Villages Regional Fund (CVRF). CVRF is set up by federal statute through the Community Development Quota (CDQ) program to allow Alaska Native communities on the Bering Sea shore a chance to participate in modern commercial fishing. Bycatch from its vessel Northern Hawk is not included in total figures in this document.*

Bycatch From Big Commercial Trawlers Hurts A Variety Of Other Actors In The North Pacific, Including Native Communities And Smaller Commercial Fishers.

Big Trawler Vessels Harvest An Outsized Share Of Salmon, Drawing Complaints From Subsistence Fishers, Smaller Commercial Fishers, And Conservationists

Big Commercial Trawlers Harvest A Substantial Portion Of The Allowable Salmon Quota. "Alaska's commercial fishermen have been speaking out against big trawlers for years, complaining that the large vessels in federal waters are scooping up mature and juvenile fish. […] Federal fisheries data shows trawlers in the North Pacific took about a tenth of the chinook — or king salmon — caught by Alaska's commercial salmon fleet last year. And those numbers are tracking the same this year. But none of that catch happens on purpose." [KTOO, 04/22/21]

Commented [MOU1]: All companies operating catcher processor vessels in the Bering Sea Alaska pollock fishery partner with, or are owned in whole or in part by, Western Alaska Community Development Quota (CDQ) Groups. Revenue from this fishery provides critical resources to Western Alaska communities in need.

Commented [SC2]: This statement (1) conflates different sectors (the Bering Sea pollock fleet does not have significant encounters with halibut because it is midwater trawl fleet); and (2) implies, in contradiction of the best available science, that bycatch of salmon is having a significant impact on Western Alaska salmon returns.

Commented [SM3]: For context, in 2021, directed commercial salmon fisheries in Alaska state waters harvested 233.8 million salmon. Additionally, Bering Sea salmon bycatch is of mixed stock origin, and includes significant quantities of non-U.S.-origin hatchery salmon.

Commented [SC4]: The North Pacific Fishery Management Council (NPFMC) manages all stocks within its jurisdiction using science-based catch limits. Any amount of bycatch taken in the pollock sector is accounted for in the annual catch limit setting process (just as it is for all other non-trawl, non-pollock fisheries and their respective bycatch). If bycatch causes a conservation impact on other stocks, it would be recognized in stock and ecosystem … [1]

Commented [SC5]: All fisheries have bycatch and it is all "legal" because it is intensively managed and accounted for by the National Marine Fisheries Service. National Standard 9 was drafted in recognition of this fact.

Commented [SM6]: Groundfish trawl fisheries primarily fall under federal jurisdiction in Alaska. Trawl stakeholders participate in the NPFMC's public process, along with all other sectors and community and conservation interests. Fishery management plans reflect a balance of competi … [2]

Commented [SC7]: As noted in my written response, the NPFMC has taken many actions to reduce bycatch, and have reduced Chinook bycatch by 89% since its peak in 2007.

Commented [SC8]: The proposals presented during a review of genetic composition of salmon bycatch were to reduce Chinook bycatch to zero in the pollock fishery. Like any fishery, the pollock fishery cannot exist without some level of bycatch, and thus the proposals would have shu … [3]

Commented [SC9]: The NPFMC's NOAA General Counsel representative explicitly noted on the record that the Councils are precluded from engaging in lobbying activity. This rational was noted for not being able to support legislation that would add two Tribal seats to the Counc … [4]

Commented [SC10]: The figures are not correct, showing some catcher vessels that are not part of the "at-sea" fleet, or At-sea Processors Association.

Commented [MOU11]: All catcher processor vessels harvest CDQ quota; and Northern Hawk harvests some non-CDQ quota. The choices made about the presentation of the data here show a fundamental misunderstanding about the scope and operation of the vital CDQ program within t … [5]

Commented [SC12]: None of the news articles excerpted below contain any actual scientific information or analysis, just unsupported statements.

- **Small Commercial Fishers And Subsistence Fishers Want To Reduce The Amount Of Bycatch Trawlers Can Harvest.** "Commercial fishermen and others from throughout Alaska are calling for a sea change in Alaska's fisheries management. Today, fishermen delivered a letter signed by over 300 Alaskans to Alaska Governor Mike Dunleavy and his administration, asking the governor to address the crisis facing Alaska's Chinook salmon by advocating for a much lower bycatch allowance in the off-shore federally managed trawl fisheries." [Alaska Sporting Journal, 10/07/21]

Trawlers Are Exceeding Their Bycatch Limits Without Repercussions, Hurting Fishers Who Target A Range Of Seafoods, Including Crab, Halibut And Sablefish. "It isn't just halibut fishermen who are furious. Last year, trawlers caught more than half a million tanner crab as bycatch in a region where, this year, crab fishermen were prohibited from setting pots because of low population numbers. And over the past two years, longliners who target sablefish—a high-value species with rich, oily flesh—**watched as Bering Sea trawlers caught three and then five times their allowable limit of this species without facing fines or other repercussions.**" [National Geographic, 04/08/21]

As Of November 1, 2021, At-Sea Processors Association Members Have Already Harvested Nearly 160,000 Salmon As Bycatch In 2021; Simultaneously, The U.S. Department of the Interior Has Noted A Loss Of 190,000 Salmon To Yukon Households

Through November 1, 2021, At-Sea Processor Vessels Have Caught Over 6,000 Chinook Salmon In Trawl Fisheries This Year, As Well As 153,000 Non-Chinook

Bering Sea and Aleutian Island And Gulf Of Alaska Chinook/Non-Chinook Salmon Bycatch Totals From At-Sea Processors Association Member Vessels 01/01/21 - 11/01/21

Vessel Name:	# Chinook Caught As Bycatch	# Non-Chinook Caught As Bycatch	# Of Hauls Sampled
Alaska Ocean	840	2,320	660
American Dynasty	650	3,696	487
American Triumph	687	19,790	483
Arctic Fjord	340	11,003	439
Arctic Storm	441	19,783	408
Island Enterprise	144	2,803	301
Kodiak Enterprise	118	23,206	269
Majesty	0	15	120

Commented [SC13]: Again, this is not the pollock sector and it also leaves out the fact that last year there was more bycatch in the pot fisheries than there was in the trawl fisheries. Regardless, the consensus by both the science-based Crab Plan Team and the Science and Statistical Committee is that environmental conditions, not bycatch, are responsible for declining crab stocks.

Commented [AE14]: The sablefish stock has experienced record recruitment events since 2016 due to environmental conditions favorable to the stock, and trawl bycatch was not determined to be a conservation concern.

Commented [SC15]: This implies that it is a 1:1 ratio of bycatch, grossly inflating implied impact. These salmon are not all destined for Western Alaska systems, and they would not return in the same year. See my written response for more detail and a summary of available impact information.

Commented [MOU16]: (1) Not all vessels listed below are at-sea processing vessels, once again reflecting the author's failure to conduct even the most basic fact checks relating to their work; and (2) this borrows from data collected on vessels by Federal observers and shared with the public through the NPFMC – a level of accountability and transparency that is present in almost no other fishery on Earth.

Commented [AE17]: All At-sea Processors Association member vessels are prohibited from participation in any Gulf of Alaska fisheries by the American Fisheries Act. It is unclear whether and how the author intends to include Gulf of Alaska fisheries in this table.

Marcy J	71	1	24
Northern Eagle	578	11,018	412
Northern Glacier	113	43	625
Northern Hawk*	385	9,043	406
Northern Jaeger	435	12,894	405
Ocean Rover	563	21,692	473
Seattle Enterprise	332	11,653	361
Starbound	371	4,740	436
Total:	**6,068**	**153,700**	**6,632**

Glacier Fish Co. American Seafoods Arctic Storm Trident Coastal Villages

Aleutian Spray [NOAA.gov, Accessed 11/01/21]

Salmon Bycatch Totals For Each Member Company Of At-Sea Processors Association & Percentage Of Total 2021 Alaskan Salmon Bycatch In The Bering Strait / Aleutian Island And Gulf Of Alaska Trawl Fisheries

Company:	**# Chinook Caught As Bycatch:**	**# Non-Chinook Caught As Bycatch:**	**% Of Total 2021 Chinook Bycatch From The BSAI/GOA**	**% Of Total 2021 Non-Chinook Bycatch From The BSAI/GOA**
Aleutian Spray (Starbound LLC)	371	4,740	2.2%	3.3%
American Seafoods Company	2,913	69,090	**32.7%**	**26.2%**
Arctic Storm Management Group, LLC	781	30,786	**14.6%**	7.0%
Coastal Villages *	385	9,043	4.2%	3.5%
Glacier Fish Company, LLC	953	2,363	1.1%	8.6%
Trident Seafoods	665	37,678	**17.8%**	6.0%
All At-Sea Processors Association Members Combined	6,068	153,700	**72.7%**	**54.6%**

Commented [AE18]: Again, it is important for the committee to understand that At-sea Processors Association vessels are not permitted to target pollock in the Bering Strait, Aleutian Islands or Gulf of Alaska. APA vessels only target pollock in the Eastern Bering Sea.

Total 2021 Chinook/Non-Chinook Bycatch From The BSAI/GOA	11,119	211,323	X	X

[NOAA.gov, Accessed 11/01/21]

**The Coastal Villages Regional Fund is set up through the Community Development Quota (CDQ) program to allow communities on the Bering Sea shore a chance to participate in modern commercial fishing. Bycatch from its vessel Northern Hawk is not included in total figures in this document.*

In A September 2021 Report, The U.S. Department of the Interior Noted A Loss Of 190,000 Salmon To Yukon Households

USFWS Report To North Pacific Fishery Management Council: "It Is Likely That Yukon Households Will Report Record Low Harvests For Salmon. This Represents The Potential Loss Of Over 190,000 Salmon... To Yukon River Families." "Subsistence harvest estimates will not be available until after household surveys are completed and results finalized, typically in December. While there may be some incidental harvest of salmon from 4-inch and smaller mesh gear, it is likely that Yukon households will report record low harvests for salmon. This represents the potential loss of over 190,000 salmon (based on historical harvest averages of Chinook and Chum combined) to Yukon River families. Despite salmon fishing closures, run sizes were so low that escapement goals throughout the drainage for Chinook and Chum salmon will likely not be met. While preseason forecasts accurately predicted the resulting run size for Chinook salmon, the Chum and Coho outlooks did not indicate the very poor runs that occurred, despite very poor fall Chum runs in 2020." [Meetings.npfmc.org, 09/15/21]

- **Indigenous Subsistence Farmers Say That The Collapse Of The Salmon Population Is Causing Physical, Mental, Emotional, And Spiritual Hardship To Their Communities.** "The shortfall in salmon this year hit fishing communities hard, particularly among subsistence fishermen. Amos T. Philemenoff, Sr., president of the Aleut Community of St. Paul Island, wrote to the board that the salmon shortages in the Arctic-Yukon-Kuskokwim region this year have impacted the island's subsistence traditions. Donations of salmon from commercial harvesters to replace the lost food do not replace the traditions, he said. 'Our communities have experienced physical, mental, emotional, and spiritual hardship due to the impacts of over-harvest and mismanagement that characterize these Alaska fisheries,' he wrote. 'The burden of conservation has fallen on Indigenous (e.g., subsistence) users who are not part of the salmon population collapse.'" [Alaska Journal of Commerce, 10/12/21]

The At-Sea Processors Association And Other Industry Groups Have Resisted Calls To Limit Bycatch

Commented [AE19]: These numbers are factually incorrect, which make the percentages of total bycatch by company and Association in the table erroneous. If the author had read the "explanation" document attached to the data table they used to present this information, they would have seen that the table only includes information from vessels with observers, but is by no means a total estimate of combined BSAI/GOA Chinook/Non-Chinook salmon taken by Federal groundfish fisheries. APA vessels are 200% observed, therefore data from our vessels is complete.

Commented [SM20]: Directed salmon fisheries are managed under the State of Alaska and Department of Interior federal authorities.

Commented [MOU21]: As noted in my written response, the most recent 2019 genetic sampling indicates that almost none of the salmon bycatch in the pollock fishery is from the Middle/Upper Yukon. Specifically, for Chinook it represents less than 1% of bycatch; and for chum it is 0.3% of bycatch. The 2019 genetics data have shown a recent steep decline in the proportion of bycaught salmon from the Middle/Upper Yukon, foreshadowing the run failures that occurred in 2021. To suggest that heartbreaking reductions in Yukon salmon runs are caused by pollock trawl bycatch is contradicted by the science, and distracts from the urgent need to study, understand and respond to the actual causes.

Commented [MOU22]: APA companies have in fact implemented globally-innovative bycatch reduction strategies. APA is committed to maintaining and extending bycatch reduction innovations.

The At-Sea Processors Association Argued That "No Fishery Is Without Bycatch And... That A Moratorium On Salmon Bycatch In The Bering Sea Would Mean A Total Shutdown Of The Pollock Fishery." "The At-Sea Processors Association — a large industrial trawl organization — said in an emailed statement that no fishery is without bycatch and that's always other species in the nets or caught on a line. The group argued that a moratorium on salmon bycatch in the Bering Sea would mean a total shutdown of the pollock fishery." [Alaskapublic.org, 10/14/21]

At-Sea Processors Member Trident Seafoods And The Pollock Industry In Alaska Have Routinely Contributed To The Bycatch Problem, Catching Thousands Of Pounds Of Bycatch While Local Communities Struggle To Stay Afloat.

Trident Seafoods Has Been Caught In Multiple Bycatch Scandals, Including Illegally Buying Bycatch Octopus And Taking In Thousands Of Pounds Of Halibut Bycatch.

Trident Was Fined For "Knowingly Buying Illegal Fish" In 2014

Trident Faced Charges For Knowingly Buying Illegal Fish From Fisherman With Too Much Octopus Bycatch In 2014. "Trident Seafoods Corporation and two fishermen face multiple charges apiece for various alleged fishing violations in fall 2014... Trident Seafoods faces six unlawful purchase charges for allegedly knowing that the Viking Star was fishing illegally and buying product from the vessel anyway. The charging documents allege that Olsen's permit was used on six fish tickets between Oct. 2, 2014, and Nov. 3, 2014, but Hanohano signed them although no emergency transfer or authorization allowing Hanohano to use Olsen's permit had occurred... The documents also say that one of the tickets dated Oct. 21, 2014, allegedly showed 5,533 pounds of octopus, 694 more than what was allowed. The state of Alaska alleges that Trident Seafoods bought the product from those six tickets despite knowing that Olsen's permit was being used by Hanohano. Olsen, Hanohano and Trident Seafoods all have change of plea and sentencing scheduled for Feb. 4, according to online court records." [Kodiak Daily Mirror, 01/22/16]

Trident Pleaded No Contest And Was Fined For Single Count Of Unlawful Purchase Of Fish. "All but one of the dozens of charges against Trident Seafoods and two fishermen were dismissed when the case was resolved earlier this month, according to court documents. According to a court log from a change of plea proceeding on Feb. 4, Trident pleaded no contest to a single count of unlawful purchase of fish and was fined $3,000 with the remaining five charges against them dismissed. The single count was reduced to a violation. Restitution in the case had already been paid, according to the notes." [Kodiak Daily Mirror, 02/17/16]

Commented [MOU23]: APA stands by these accurate statements.

Commented [SM24]: A moratorium on salmon bycatch would leave groundfish fisheries closed due to species intermixing in Bering Sea and Gulf of Alaska fishing grounds. Gear innovations, bycatch hot spot avoidance and other management measures are used to minimize bycatch to the extent practicable. The pollock industry, including Trident Seafoods, has actively developed and improved bycatch avoidance and has accepted or supported NPFMC leading bycatch reporting requirements and accountability measures.

Commented [SC25]: Trident was fined in 2014 for buying fish from a pot gear-sector harvester who hadn't correctly filled out the paperwork needed to complete an emergency medical transfer after the permittee fell gravely ill. Our citation was not related in any way to bycatch.

Trident Drew Heavy Criticism After Video Showed A Trident Facility Taking In Thousands Of Pounds Of Halibut Bycatch.

Commented [SC26]: No illegal or unusual activity occurred. Like any processor, we receive bycatch from our independent harvesters when they deliver. We work with SeaShare, a non-profit organization, to donate much of this bycatch to needy families.

Regardless, all bycatch is managed intensively by the National Marine Fisheries Service and accounted for in setting annual catch limits.

Social Media Post Showed Thousands Of Pounds Of Halibut Bycatch At Trident Facility In Kodiak. "Longtime fisherman Erik Velsko says if Trident really cares about halibut and sustainability some things need to change. Velsko recently called out Trident on Facebook posting photos and video of excessive halibut bycatch at the plant that appeared to be from the local trawl fishery and which was going to be turned into fishmeal. 'Totes full of halibut and you know obviously they had some markings and looked a little damaged. They were not gutted or dressed, as we call 'em, longline – so the only place they could have come off of was a trawl vessel,' Velsko said." [Alaskapublic.org, 06/06/18]

- **Fisherman Alleged There Were 15 Totes, Carrying 1,000 Pounds Of Bycatch At Trident Facility.** "In all, Velsko alleges there were around 15 totes, each containing about one thousand pounds of fish. The images were taken in fall 2017, when a fellow fisherman captured them but wanted to remain anonymous, so Velsko posted the images to his Facebook page this May with a paragraph alleging wastefulness." [Alaskapublic.org, 06/06/18]

- **Fisherman Who Posted Bycatch Video Claimed That "What Is Happening With Halibut At The Trident Plant In Kodiak Is Legal, But Immoral And Wasteful."** "Velsko, the fisherman who posted the video, says he believes what is happening with halibut at the Trident plant in Kodiak is legal, but immoral and wasteful, and it was especially upsetting to him in light of recent restrictions on the halibut fishery due to conservation concerns." [Alaskapublic.org, 06/06/18]

Trident Manager Called The Photos "Disheartening To Say The Least," But Claimed They Are Taken Out Of Context. The Trident plant manager also saw Velsko's post. 'I did see the photos, yes,' Lumsden said. 'And that was alarming to me. It was disheartening to say the least.' But Lumsden says the images were taken out of context. 'The frustrating thing is when you see a 30-second video like that and you don't know the background,' Lumsden said. 'When that video shows a full tote, a thousand pounds of fish being dumped into a truck [it] gives a false representation like there is just tote after tote after tote and that is simply not the case.'" [Alaskapublic.org, 06/06/18]

Commented [SM27]: Trident serves more than 1,000 independent fishing vessels involved in all major fisheries and gear types. Trident has processing operations in 10 Alaska communities. Trident leadership, their captains and crew, and processing operation management teams care deeply about doing their part to support healthy fisheries and communities that rely on them. Fishery management objectives in the Gulf of Alaska include minimizing barriers to entry, which has led to less costly and less sophisticated bycatch management in that region relative to the Bering Sea. It is disheartening when the result is an occasional high bycatch fishing trip.

NPFMC Took No Action To Limit Salmon Bycatch At Its October 2021 Meeting Despite Desperate Need From Alaska Native Villages

Alaska Native Leaders Wrote That The NPFMC's "Failure To Eliminate The Pollock Trawl Fleet's Salmon Bycatch Considerably In 2022 Disappoints Us As It Proves Industrial Fishing Is Favored Over Our Subsistence Ways Of Life." "While the Council committed to some longer-term action, they did not heed our call to recognize that subsistence fishing families in western Alaska deserve to harvest the fish we have

Commented [AE28]: The NPFMC is required by the MSA to balance all of the National Standards and use the best available scientific information to make those decisions.

been catching, cutting, and sharing for at least 12,000 years. Their failure to eliminate the pollock trawl fleet's salmon bycatch considerably in 2022 disappoints us as it proves industrial fishing is favored over our subsistence ways of life." [Anchorage Daily News, 10/30/21]

Fisheries Managers Are Perceived As Being Too Cozy With The Trawler Industry

Commented [MOU29]: The Council process is open and transparent, and all sectors are represented on the Council / Council committees. APA and other organizations engage in the Council process in good faith and provide testimony based on mechanisms available to all stakeholders.

Non-Trawler Fishermen Are Suspicious Of What They See As A Cozy Relationship Between Fisheries Managers And The Trawl Industry As Numerous State And Federal Fisheries Professionals Are Recruited To Jobs In The Industry." "At meetings of the North Pacific Fishery Management Council, which sets the bycatch limits, longliners with decades on the water but no formal training find themselves up against highly educated, well-prepared trawl industry representatives. 'Half of them haven't even been on a boat,' Velsko says. Fishermen are likewise suspicious of what they see as a cozy relationship between fisheries managers and the trawl industry as numerous state and federal fisheries professionals are recruited to jobs in the industry." [National Geographic, 04/08/21]

The Top Fisheries Administrator In The Trump Administration Now Works For Pollock Trawler Corporation American Seafoods. "A former top administrator for the National Oceanic and Atmospheric Administration (NOAA), Chris Oliver has been added to the American Seafoods regulatory division as Special Advisor on Government Affairs." [American Seafoods, 06/07/21]

Earlier This Month (November 2021) The NPFMC Struck Language To Add More Tribal Representation To The Council.

The NPFMC Mentioned The Equity Concern Over Bycatch With Allowing The Pollock Fleet To Continue Fishing. "Rationale in Opposition to Amendment 1: There is an equity concern when in-river salmon users are unable to successfully harvest while the BSAI pollock fleet is able to continue its fishing practices." [Meetings.npfmc.org, Accessed 11/03/21]

- **The NPFMC Advisory Panel Eliminated The Language From The Proposal To "Add 2 Voting Tribal Seats, Appointed By The Tribes, To The NPFMC Table." "**4) Ensure Alaska Native Tribes have a seat at the decision-making table ~~a. 3.Support adding 2 voting Tribal seats, appointed by the Tribes, to the NPFMC table.~~ b. Ensure Alaska Native Tribal representation on all Council bodies, including the AP, SSC and plan teams.... *Amendment 3 passed 15-3.*" [Meetings.npfmc.org, Accessed 11/03/21]

Commented [MOU30]: See comment above relating to Council lobbying prohibitions.

Alaska Native Leaders Have Criticized NPFMC For Inadequate Tribal Representation.

Alaska Native Leaders Say They Have "No Vote" In NPFMC's Processes And That Council Inaction Makes It Clear They Need Voting Seats. "Furthermore, the State of Alaska has a majority on the Council, and the ability to make decisions that are in the

best interest of the state and our people. The decisions of the state through the Council directly impact our lives as fishermen, yet our 229 federally recognized tribes have no vote in its processes. The Council's (in)actions make it abundantly clear that change is needed to the laws governing our federal fisheries, especially the Magnuson-Stevens Act. Rep. Huffman (D-CA) has introduced a bill to reauthorize the MSA which includes two voting tribal seats and strengthens the requirement to reduce bycatch. The time is long overdue for tribes to have seats at the decision-making table, as they do in the parallel Council in the Pacific Northwest." [Anchorage Daily News, 10/30/21]

NPFMC Went So Far As To Write A Letter Opposing New Legislation That Would Address The Problem Of Trawler Bycatch

NPFMC Submitted A Response To Jared Huffman's "Sustaining America's Fisheries For The Future Act Of 2021," Where They Expressed Concern Over The Gravity Of The Bycatch Language Of The Text. "Inclusion of the phrase 'to the extent practicable' provides some threshold for achieving bycatch minimization, which is necessarily to be balanced with other national standards. By eliminating (Congressmen Huffman and Case September 30, 2021 Page 12 12) the practicability clause, the proposed bill creates a major policy change for just one fishery management component (bycatch), which could create uncertainty for the Council when considering and balancing the existing national standards" [Meetings.npfmc.org, 09/30/21]

Page 1: [1] Commented [SC4] **11/20/21 9:24:00 AM**

The North Pacific Fishery Management Council (NPFMC) manages all stocks within its jurisdiction using science-based catch limits. Any amount of bycatch taken in the pollock sector is accounted for in the annual catch limit setting process (just as it is for all other non-trawl, non-pollock fisheries and their respective bycatch). If bycatch causes a conservation impact on other stocks, it would be recognized in stock and ecosystem assessment reports. To date, bycatch has not been recognized as a negative driver on stock or ecosystem health. Potential impacts are actively managed.

Page 1: [2] Commented [SM6] **11/21/21 2:13:00 PM**

Groundfish trawl fisheries primarily fall under federal jurisdiction in Alaska. Trawl stakeholders participate in the NPFMC's public process, along with all other sectors and community and conservation interests. Fishery management plans reflect a balance of competing objectives driven by National Standards.

Page 1: [3] Commented [SC8] **11/20/21 9:31:00 AM**

The proposals presented during a review of genetic composition of salmon bycatch were to reduce Chinook bycatch to zero in the pollock fishery. Like any fishery, the pollock fishery cannot exist without some level of bycatch, and thus the proposals would have shut down the pollock fishery. Even if the Council were to take up these proposals, it would have to go through its public, analytical process.

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The NPFMC's NOAA General Counsel representative explicitly noted on the record that the Councils are precluded from engaging in lobbying activity. This rational was noted for not being able to support legislation that would add two Tribal seats to the Council. Given that H.R. 4690 would further strengthen MSA provisions that limit Councils' ability to lobby, it is confusing to see criticism here of the NPFMC's decision to conform to their legal advice on this matter..

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All catcher processor vessels harvest CDQ quota; and Northern Hawk harvests some non-CDQ quota. The choices made about the presentation of the data here show a fundamental misunderstanding about the scope and operation of the vital CDQ program within the Alaska pollock fishery.

Mr. HUFFMAN. Next, we will hear from Mr. John Pappalardo, CEO of Cape Cod Commercial Fishermen's Alliance, Incorporated.

The Chair now recognizes Mr. Pappalardo to testify for 5 minutes.

STATEMENT OF JOHN PAPPALARDO, CEO, CAPE COD FISHERMEN'S ALLIANCE, INC., CHATHAM, MASSACHUSETTS

Mr. PAPPALARDO. Thank you, Chairman Huffman, Ranking Member Young, and members of the Subcommittee. My name is John Pappalardo, and I am the CEO of the Cape Cod Commercial Fishermen's Alliance.

The Fishermen's Alliance is composed of small boat, conservation-minded commercial fishermen. We have nearly 100 fishing members with thousands of community supporters, and this year, we are celebrating our 30th anniversary.

I have also had the privilege of serving on the New England Fishery Management Council for 15 years, 5 of which I chaired.

The Fishermen's Alliance is also a founding member of the Fishing Communities Coalition (FCC), an association of community-based, small-boat commercial fishing organizations, representing more than 1,000 fishermen from Maine to Alaska.

FCC members share a strong commitment to the sound conservation and sustainable management of America's fishery resources, and we work to ensure healthy, thriving oceans for future generations of commercial fishermen. As such, the FCC is proud to have worked with this Subcommittee, both on reauthorizing MSA, as well as the recent enactment of the Young Fishermen's Development Act, which created a critical program for future generations of fishermen.

I would like to provide comment on two of the titles in H.R. 4690 with the time I have left. I will start with Title I, Climate Ready Fisheries. Title I, Climate Ready Fisheries, includes several important provisions aimed at improving the management of our fisheries in the face of ever-increasing challenges brought on by climate change.

The Fishermen's Alliance and FCC support increasing the adaptive capacity of fisheries management, incorporating climate science into fisheries research, and strengthening the resiliency of fish stocks to climate change impacts as proposed in the bill.

While Title I focuses on increasing resiliency and mitigating the consequences of climate change, it does not include a directive for the councils to evaluate the impacts of climate change on how they manage their fisheries. This is why I recommend that the Subcommittee consider adding a new climate change National Standard in Section 301 of the MSA for fishery conservation and management.

The National Standards represent the core policy of this nation and provide direction to the agency and councils as to how conservation and management measures must be developed. A new climate change National Standard would require councils to consider the impacts of climate on proposed conservation and management measures.

In my written testimony, I have included a draft straw mat of that National Standard. I also included some language that I think would be helpful to add to the requirements of the SSC under Section 302.

Moving on to Title IV of H.R. 4690, Section 409, entitled "Offshore Wind Collaboration" caught my eye. It requires the Secretary of Commerce and the Secretary of Interior to enter into

an agreement to fund additional stock assessments related to the development of offshore wind energy.

Over the next two decades, our marine ecosystem in the Northeast will be altered by the construction of a dozen or more offshore wind farms. It is my sincere hope that Section 409 will create a substantial fund capable of modernizing marine resource surveys and ecosystem assessments.

The Northeast region needs a re-imagined fishery survey and assessment program. A new survey program using industry vessels is also an important consideration.

Presently, today, areas the council has designated as essential fish habitat are being leased by BOEM for wind farms. Our lucrative and historic fishing grounds will be altered or lost, and the fishing industry and council has little to no standing with the BOEM process beyond a consultation and comment period. So, you see, Section 409 needs to lead to better collaboration between Interior and Commerce.

Section 502 of H.R. 4690 attempts to address negative impacts of offshore development and activities on EFH by requiring Federal agencies to consult with the Secretary of Commerce. While this section might improve the current situation, until the Secretary and NOAA are given veto power over proposed Federal projects that could destroy our EFH, nothing will materially change. Offshore wind development along the eastern seaboard is going to have a significant impact on our industry and the habitat and fishing grounds we work to protect.

It should be noted that impacts of wind farms extend beyond the respective lease areas. Each new wind farm built is not created in a vacuum, and yet there is a distinct lack of consideration or evaluation of the cumulative impacts with each successive wind farm built. Fishing operations that are displaced from lease areas will move to overlap with other fisheries. Habitats will be altered. When all these lease areas are built out, what will these impacts be to our historic industry?

The agreement struck in Section 409 between Interior and Commerce could be written with total build-out of all lease areas in mind. Leaseholders could be bound to fund this agreement on an ongoing basis. The annual fishery resource surveys should be industry based, and in partnership with NOAA.

I thank you for the opportunity to provide these comments and would be happy to provide any other information.

[The prepared statement of Mr. Pappalardo follows:]

PREPARED STATEMENT OF MR. JOHN PAPPALARDO, CAPE COD COMMERCIAL FISHERMEN'S ALLIANCE ON BEHALF OF THE FISHING COMMUNITIES COALITION

Chairman Huffman, Ranking Member Bentz, and members of the Water, Oceans and Wildlife Subcommittee, my name is John Pappalardo and I am CEO of the Cape Cod Commercial Fishermen's Alliance (Fishermen's Alliance). The Fishermen's Alliance is composed of small boat, conservation-minded commercial fishermen. We have nearly 100 fishermen, families, and members with thousands of community supporters as we celebrate our 30th anniversary. I have also had the privilege of serving on the New England Fishery Management Council for 15 years, 5 of which I chaired the Council.

The Fishermen's Alliance is also a founding member of the Fishing Communities Coalition (FCC), an association of community-based, small-boat commercial fishing organizations representing more than 1,000 fishermen from Maine to Alaska. FCC

members share a strong commitment to the sound conservation and sustainable management of America's fishery resources, and we work to ensure healthy, thriving oceans for future generations of commercial fishermen. As such, the FCC is proud to have worked with this subcommittee both on reauthorizing the Magnuson-Stevens Act (MSA) as well as the recent enactment of the Young Fishermen's Development Act, which created a critical program for future generations of fishermen.

Before addressing possible changes to the MSA, I would like to thank the subcommittee for its help in navigating the COVID-19 pandemic. As you are very aware, the pandemic quite vividly exposed the weaknesses in our supply chains which we are still dealing with today. Fewer markets for our fish combined with low prices were a real challenge to our fishermen and their families. Your support for CARES Act funding and other initiatives designed to help our industry have not gone unnoticed and are greatly appreciated. We still have a long way to go, and your continued support is greatly needed.

Before examining specific provisions of the legislation being reviewed today, I'd like to offer one overarching observation regarding the reauthorization process. 2006 was the last major MSA reauthorization, and it took well over a decade for many of those provisions to be implemented. Much of the delay was due to the lack of agency resources, staff, scientists, and ship time. I ask the subcommittee to be mindful that simply changing the law does not necessarily mean those changes will go into effect immediately. They become unfunded mandates. The 2006 amendments were highly "science-driven," meaning the National Oceanic and Atmospheric Administration (NOAA) was required to conduct scientific research without the resources to perform in a timely manner. As you consider amending the MSA, please consider the level of resources, both in terms of budget and staff, it will take to enact changes and the likelihood those resources will be available to the agency.

H.R. 4690: Title I

Title I "Climate Ready Fisheries" includes several important provisions aimed at improving the management of our fisheries in the face of ever-increasing challenges from climate change. The Fishermen's Alliance and the FCC support increasing the adaptive capacity of fisheries management, incorporating climate science into fisheries research, and strengthening the resiliency of fish stocks to climate change impacts as proposed in the bill. However, the prescribed solution to managing shifting stocks in Sec. 105 is not something we can support at this time. Having experienced "joint plans" with the New England and Mid-Atlantic councils when I was chair, I found them to be bureaucratic, time-consuming, and not necessarily producing a good result. We would be happy to work with the subcommittee on developing a more effective approach.

While Title I of H.R. 4690 focuses on increasing resiliency and mitigating the consequences of climate change, it does not include a directive for the councils to evaluate the impacts of climate change on how they manage their fisheries. This is why I recommend the subcommittee consider adding a new "climate change" national standard in Sec. 301 of the MSA for fishery conservation and management.

The national standards represent the core policy of this nation and provide direction to the agency and councils as to how conservation and management measures must be developed. Currently, the national standards require that conservation and management measures minimize bycatch, promote safety of human life-at-sea, and are based on the best science among other requirements. The climate crisis is real, and our fishermen are on are on the frontlines—Cape fishermen were changing their business plans to incorporate the northward migration of black seabass before the term climate-resilient fisheries was even coined. A new climate change national standard would require councils to consider the impacts on climate of any proposed conservation and management measure.

Proposed Language:

(11) Conservation and management measures shall, to the extent practicable, consider and incorporate observed and projected impacts of climate change on resource productivity and distribution.

But more can be done. We need to make sure that the impacts of climate change on the productivity and distribution of our fishery resources be incorporated into the scientific advice provided to the councils by the scientific and statistical committees (SSCs). I am therefore proposing an amendment to the responsibilities of the SSCs as follows:

At the end of Sec. 302(g)(1)(B) add the following: "In providing scientific advice, each scientific and statistical committee shall consider the impacts of climate change on stock productivity and distribution."

H.R. 4690 Title II

Title II of H.R. 4690 includes a number of sound proposals that we support, including important changes to subsistence fishing in Sec. 202. We strongly support the provisions on working waterfronts (Sec. 203). Our fishermen understand the importance of providing access to working waterfronts, not only for fishing businesses and vessels, but for boatbuilding, aquaculture, and other water-dependent businesses. Without these services, our fleets could not survive.

Sec. 204 would improve seafood marketing by requiring the U.S. Department of Agriculture (USDA) and NOAA to work together to develop seafood marketing and education programs within NOAA. We suggest a different approach. The USDA and the USDA Agricultural Marketing Service (AMS) are experts in purchasing large commodities of agricultural products; that's what they do! Rather than duplicate this expertise within NOAA, we would suggest NOAA work with the USDA to provide the information they need to begin purchasing more domestic seafood for food nutrition programs. NOAA expertise is important because wild-caught American seafood differs significantly from traditional agricultural products; soybeans can be grown almost anywhere, while most seafood species are limited to specific regions. This makes the independent American fisherman a core part of the grow-local food movement that emphasizes smaller scale and a healthy proximity between producer and consumer. Smaller scale and diversification present special challenges to USDA, which often employs a national procurement model, and this is where NOAA can help. AMS Commodity Procurement Office should create a seafood program to work with NOAA and the seafood industry to (1) develop seafood products requirements and specifications, (2) promote and provide local seafood at regional scale to foodbanks, community food associations, and other entities like public schools and prisons, and (3) integrate more seafood into AMS purchases and identify marketing opportunities for the seafood industry. USDA has a proven track record in accomplishing these opportunities for the beef, chicken, and pork industries.

By way of example, in response to the COVID-19 pandemic, the Fishermen's Alliance created a new product, a haddock chowder under the brand name "Small Boats, Big Taste." We were able to offer more than 725,000 servings of this delicious chowder to food banks and pantries across the Northeast, while keeping fishermen on the water during a time of economic crisis. Yet even a regional program as robust as this has had a difficult time moving into the USDA procurement process, in large part because our fishermen, processors, and manufacturers cannot supply a single standardized product at national scale. This is a crucial issue for the American small-boat fleet that reauthorization can and should address.

In Title II, Sec. 205, we are pleased to see emphasis given to community participation in new limited access privilege programs (LAPPs). This language is similar to that provided to the subcommittee by the FCC but not in its entirety. The FCC proposal included a provision that required councils to designate, prior to plan submission, fishing communities that could be eligible to receive a community allocation. Without having prior knowledge as to whether a specific fishing community is eligible to receive quota, no community can spend the time and money it would take to design a community sustainability plan as required under the Act. Requiring the councils to identify eligible communities in advance will help ensure that communities are given a chance to participate. Although MSA has authorized community participation in LAPPs for decades, not one community has secured an allocation under current MSA provisions.

H.R. 4690 Title III

Title III of H.R. 4690 includes several council procedural matters and important sexual harassment and assault prevention measures, all of which the Fishermen's Alliance and the FCC support.

There is one important matter not addressed in Title III that we believe would strengthen conservation and encourage accountability, and therefore should be included in the bill. Currently, the MSA requires management councils to review LAPPs at least every 7 years and, if necessary, make modifications to meet the goals and objectives of the program. As we have seen in the Gulf of Mexico, the open-access private angler sector continues to attempt to reallocate quota away from the limited access commercial sector. Furthermore, as NOAA Fisheries attempts to "recalibrate" previous recreational catch estimates, commercial fishermen—who weigh and validate every pound of fish landed—find themselves having quota taken away while private anglers—only some of whom complete voluntary surveys estimating their catch—see their quota increase. This hardly seems fair. While we support increasing the accuracy and precision of recreational catch estimates, this process should not be used to penalize the commercial sector which has stronger accountability measures and a history of staying within their science-based quotas.

To that end, we feel strongly that any reallocation should only go to those sectors that do not overfish or exceed their quota. If, however, regional fishery management councils decide to reallocate under approved allocation policies, we suggest that there be a cap (2–3% per year) on the amount of quota shift that could happen so as to provide for more stability in the fishery and in commercial fishermen's business plans.

Suggested MSA amendment:

Section 303A(c)(G) is amended by striking the semicolon at the end and inserting ". If after a formal and detailed scheduled review as required by this section, the Council determines that a reallocation of quota is necessary to meet the goals and objectives of the program, it may only reallocate to a sector, person or entity that has not overfished, not engaged in overfishing, or exceeded harvest limits during the period being reviewed."

H.R. 4690 Title IV

Title IV includes very important provisions designed to expand and improve the use of electronic reporting, electronic monitoring (EM), and other new technologies. Fishermen's Alliance and FCC view accountability as a key element of our management system. Unfortunately, the National Marine Fisheries Service (NMFS) is behind in terms of advancing and employing new technologies. More than 15 years ago, members of the Fishermen's Alliance conducted a pilot study demonstrating that cameras placed on our boats can be as effective as human observers. Regrettably, widespread use of EM and other new technologies has yet to be achieved.

The Fishermen's Alliance is supportive of Sec. 403, aimed at prioritizing and improving stock assessments. Stock assessments are the backbone of our science-based management approach. Establishing catch limits and other accountability measures in the absence of up-to-date information on the status of the stocks is very difficult and can lead to excess harvest levels. Inadequate funding for stock assessments hinders the ability of the councils to meet the accountability measures required by the MSA.

Sec. 409, entitled "Offshore Wind Collaboration," requires the Secretary of Commerce and the Secretary of Interior to enter into an agreement to fund additional stock assessments related to the development of offshore wind energy. Over the next two decades our marine ecosystem will be altered by the construction of dozens of offshore wind farms. I hope Sec. 409 will create a substantial fund capable of modernizing marine resource surveys and ecosystem assessments.

The Northeast region needs a reimagined marine survey and assessment program. A new survey program based on a cooperative or industry-based survey model is necessary. Areas the council has designated as essential fish habitat (EFH) are now being leased by BOEM for large-scale power generation. Lucrative fishing grounds will be altered or lost and the fishing industry and council has little to no standing with the BOEM process beyond a consultation and comment period. Sec. 409 needs to lead to better collaboration between Interior and Commerce.

Sec. 502 of H.R. 4690 attempts to address negative impacts of offshore development and activities on EFH by requiring federal agencies to consult with the Secretary of Commerce. While this section might improve the current situation, until the Secretary and NOAA are given veto power over proposed federal projects that could threatened or destroy EFH, nothing materially will change. Offshore wind development along the Eastern seaboard is going to have a significant impact on our industry and the habitat and fishing grounds we work to protect. It should be noted that impacts of windfarms extend beyond the respective lease areas. Each new wind farm built is not created in a vacuum, and yet there is a distinct lack of consideration or evaluation of the cumulative and increasing impacts of offshore wind development on the whole. Fishing operations that are displaced from lease areas will move to overlap with other fisheries. Habitats will be altered as well. When all lease areas are built out what will the impacts be? Who is evaluating and mitigating the wholesale transformation of our nearshore resources? The agreement struck in Sec. 409 between Interior and Commerce should be written with total buildout in mind. Leaseholders should be bound to fund this agreement on an ongoing basis. The annual resource surveys should be industry-based in partnership with NOAA.

The Fishermen's Alliance strongly supports the forage fish provisions included in Sec. 508. This language is very similar to that proposed by the FCC and its members. To ensure conservation and management of river herring and shad, Sec. 508 directs the Secretary to add these stocks to the relevant fishery management

plan. The Fishermen's Alliance strongly supports this effort as forage fish must be conserved and managed for the health of our ecosystems.

Lastly, Sec. 509 includes a small but extremely important clarification to those of us in New England. Years ago, there was a significant lapse in fisheries law enforcement in New England partly due to lack of funding. We knew that cheating was increasing, and it needed to be curtailed. Working with then-Congressman Gerry Studds, the MSA was amended to require that fines and penalties imposed against fishermen and fish processors for violations of the New England groundfish plan *shall* be used to enforce the management plan. Congressional intent was clear: use these funds to bolster enforcement efforts. But over the years, Administrations of both political parties have refused to follow the law. The clarification included in H.R. 4690 will ensure that additional resources are available for enforcement and monitoring of the groundfish plan.

Thank you for the opportunity to provide these comments and we would be happy to provide any other information the subcommittee may require.

Mr. HUFFMAN. Thank you, Mr. Pappalardo.

We will next hear from Dr. Sean Powers of the University of South Alabama School of Marina and Environmental Science and the Dauphin Island Sea Lab.

The Chair now recognizes Dr. Powers for 5 minutes.

STATEMENT OF DR. SEAN POWERS, DIRECTOR, SCHOOL OF MARINE AND ENVIRONMENTAL SCIENCE DAUPHIN ISLAND SEA LAB, UNIVERSITY OF SOUTH ALABAMA, MOBILE, ALABAMA

Dr. POWERS. Thank you, Chairman Huffman, Ranking Member and Dean of the House, Congressman Young, and members of the Subcommittee. I am pleased to appear in front of you today to discuss improving the nation's marine fisheries management.

Since its enactment, the Magnuson-Stevens Act has advanced management of marine fisheries, which, in turn, has benefited our nation greatly. Bipartisan legislation has provided a roadmap confronting many of the challenges in fisheries management, from removing unregulated international fishing fleets from our coastal waters, ending overfishing of many stocks, as well as addressing pressing economic and environmental issues that could jeopardize the future sustainability of marine fisheries.

Through major amendments, the Act has evolved to include better participation of regional stakeholders and management actions, and greater reliance on science-based management advice.

Two points that illustrate this are the Act's mandates for the identification and protection of essential fish habitats and greater incorporation of ecosystem-based principles. These were two truly forward-looking concepts that were included in the legislation.

In its current form, I believe the Act provides a framework to meet current as well as most of the future challenges through its focus on regional-based management, science-based decisions, and its desire to achieve optimal yield in fisheries.

I encourage the Act's continued attention in promoting more regionally focused management and believe Congress should consider expanding this focus to more local entities at the state or multi-state commission level.

Though migrant movement of juvenile and adult fish is relatively small—in other words, these are not highly migratory species—greater ability of the states to manage this stock should be

considered. I believe the current shift in management of reef fish in the northern Gulf of Mexico provides an excellent example of how beneficial such a system would be providing stocks or not in an overfished condition. I believe this is in keeping with the intent of the Act to better engage regional stakeholders and achieve optimal yield.

Another critical element of the Act is its reliance on science. An increasingly important tool for fishery managers is the greater ability of fisheries-independent data. These are scientifically directed surveys and studies that can provide critical biological information that can be used to better inform assessments and management.

Unlike fisheries-dependent data, largely catch and landings data, which are currently the primary source of information for stock assessments, fisheries-independent data is not confounded by fishermen's behavior and market forces. The inferences are not limited to the current hotspots of exploitation.

A recently completed Great Red Snapper Count in the Gulf of Mexico, an initiative funded through congressional action, as well as work my group has been conducting in Alabama coastal waters for the last decade, have demonstrated how fisheries-independent scientific studies can be used to estimate absolute abundance of fish stock.

I believe agencies should be strongly encouraged to provide greater weight to abundance estimates based on rigorously collected fisheries-independent data. Such studies, coupled with the inclusion of better socioeconomic data, which is also desperately needed in fisheries management, will help the nation reach the optimal yield targets set forth in the Act, National Standard Guidelines. Many states, like Alabama, have invested significant financial resources in providing these data.

Improved socioeconomic data will also allow for a greater balance between stakeholder needs and rebuilding schedules of fish populations. Rebuilding of fish population is fairly easy and involves largely eliminating fishing-related mortality. Saving the fishermen while rebuilding the fish population is the difficult part of why we need further investment with fishery research.

This task will become even more complex as true ecosystem-based management is adopted and socioeconomic data streams are improved. True ecosystem-based management should involve more than just setting limits of the most vulnerable species or the stock in the poorest condition. Optimal yield in a multi-species or ecosystem context, may require trade-offs that may involve longer rebuilding periods for one species in order to allow optimal yield to be achieved in other fisheries. This will require a greater flexibility in the context of National Standard Guideline 1.

Thank you for your time, and I am happy to answer any questions later.

[The prepared statement of Dr. Powers follows:]

PREPARED STATEMENT OF SEAN P. POWERS, PH.D., DIRECTOR, SCHOOL OF MARINE AND ENVIRONMENTAL SCIENCES AND ANGELIA & STEVEN STOKES ENDOWED CHAIR, UNIVERSITY OF SOUTH ALABAMA

Chairman Huffman, Ranking Member Bentz, and Members of the Subcommittee, I am pleased to appear before you today to discuss improving the nation's ability to sustainably manage fisheries through greater reliance on science. My name is

Sean Powers, and I am Director of the School of Marine and Environmental Science at the University of South Alabama as well as a Senior Marine Scientist at the Dauphin Island Sea Lab in Alabama. I am a fisheries ecologist with over 20 years of experiencing studying a range of fisheries species including inshore finfish (e.g., Red Drum, Speckled Sea trout, Southern Flounder) and offshore reef fish (e.g., red snapper, gray triggerfish and greater amberjack) in the Gulf of Mexico; salmon and flatfish in Alaska; and tuna in the Galapagos Islands. In addition to developing new and novel methodologies to advance my field of study, publishing the results of these studies, and training the next generation of marine scientists, I am committed to transferring science to the management and policy arenas. I feel strongly about this latter point because funding for much of my work ultimately comes from the taxpayers of this nation. I believe the work that my colleagues and I have accomplished have and will continue to improve the states and nation's ability to effectively manage marine fisheries. I have been fortunate to be called upon to serve on several panels and committees at the regional and national level (Gulf of Mexico Fisheries Management Council's Science and Statistical Committee, National Academies of Science and Engineering Panels, Alabama Forever Wild Land Trust) to provide advice in achieving the goal of sustainable management of marine fisheries. I have worked on many contentious issues over my career, one of which I am here today to discuss—management of the reef fish in the Gulf of Mexico.

Since its enactment in 1976 and subsequent reauthorizations in 1996 and 2007, the Magnuson-Stevens Fishery Conservation and Management Act (MSA) has provided the framework for improved management of marine fisheries. The result has been large improvements in the condition of many stocks that have benefited our nation. Through congressional action, the Act has evolved over the years in response to stakeholder concerns as well as technological and scientific advances with the goal of improving the conservation and economic benefits of healthy fish stocks. Opportunities to improve the management of marine fisheries remain through amendments to the Act as well as through other actions Congress can take. Increased efficiency of commercial fleets has resulted in more profitable returns for that sector. Increased participation in marine recreational fisheries has fueled continued economic development in coastal communities and provided exceptional growth opportunities for maritime and outdoor and leisure-related industries. Sustaining these benefits requires effective management that is responsive to changing socioeconomic and ecological conditions. Science can and must play a key role in developing the data streams and analyses needed to inform policy makers.

My testimony will focus on four key issues I believe are germane to the three bills discussed in this hearing: (1) the expanding the role of fisheries-independent studies to inform management; (2) increasing cooperation between federal and state partners in providing scientific information; (3) including more local management (State) of marine fisheries; and (4) the need for stability in fisheries management.

Historically, the primary mechanism where data are synthesized to inform fisheries management has been the stock assessment process. A major improvement in stock assessments has been the expanded use of fisheries-independent data. Fisheries-independent surveys (scientifically directed surveys that generate relative abundance indices as well as critical biological information on targeted and non-targeted species) can be used to inform stock assessment. Unlike fisheries-dependent (catch) data, which are currently the primary source of information for stock assessments, fisheries-independent data is not confounded by fishermen behavior, market forces, and inferences are not limited to the current hot spots of exploitation. Technological advances and cost effectiveness in ocean observing instruments, underwater cameras, hydro-acoustics, and statistical approaches have resulted in a suite of rigorous methods to measure fish abundance independent of capture (hooks and net) methods. Advancements in machine learning and artificial intelligence also offer the promise of decreased processing time and hence more timely data. The recently completed Great Red Snapper Count, an initiative funded through congressional action, as well as work my group has been conducting in Alabama coastal waters for the last decade has demonstrated how fisheries-independent data can be used to estimate absolute abundance of fish stocks. The exhaustively reviewed report found the number of Red Snapper in U.S. waters of the Gulf of Mexico was 3 times higher than the recent estimate from the stock assessment. Any new *fisheries legislation should advance the shift away from catch-based stock assessments to fisheries-independent based assessments*. Further, agencies should be strongly encouraged to provide greater weight to abundance estimates based on rigorously collected fisheries-independent data.

Under MSA, agencies are directed to use the "best scientific information available" (see National Standard 2). For decades, most scientific information available was collected and provided by NOAA Fisheries or by state and university

researchers under cooperative agreements with the agency. Over the last decade, many States, particularly those in the Gulf of Mexico, have invested significant resources in fisheries-dependent and -independent data designed to monitor the catch and condition of their economically critical stocks off their respective coast. Most of these surveys have a rigorous, peer-reviewed scientific design as their foundation. The term "best" has been interpreted by many that a choice must be made on which data to use in developing management advice. Given the increasing number of rigorously designed data streams, a more inclusive term should be adopted. Any *new legislation should encourage the use of all rigorous and accepted science in developing management advice*.

A product of increased investments in fisheries data collection by Gulf States over the last decade is greater spatial resolution of stock dynamics. This enhanced resolution could support local management that is more responsive to the socioeconomic concerns of coastal communities. *Provided a stock is not overfished, local control in setting harvest targets may better facilitate achieving optimum yield and thus maximizing economic benefit (National Standard 1)*. If a stock, managed under a stock annual biological catch limit in a regional (i.e. state level) form of management, is determined to be overfished by the regional fisheries management council, the level of local management control could depend on biological measures such as the strength of the spawner-recruit relationship. If rebuilding in states is dependent on a region-wide source of larvae because recruitment is not local and relies on greater regional connectivity, then managing the stock over its range should supersede regional (state) management. More local control could also be more effective in guarding against overfishing, which could lead to an overfished condition. Localized depletions are often evident long before regional indices will detect declining trends. Provided states have rigorous and timely fisheries-data-collection-systems decreases in recruitment (evidence for recruitment overfishing) and/or reductions in the size of fish (evidence for growth overfishing) can be detected and management action at the appropriate spatial scale can be implemented quickly through areal closures or season length adjustment.

Finally, the guiding principle of MSA and related fisheries legislation is the achievement of optimum yield. While the definition of optimum yield depends on the stakeholder group or sector questioned, an increasingly relevant concern of all sectors is stability in the fishery. Many commercial fisheries have been able to achieve both through LAPPs (Limited Access Privilege Programs). More predictable and stable season lengths and bag limits would allow businesses dependent on recreational fisheries to achieve similar success. *Stability in all sectors of a fishery should be a component of achieving optimum yield*.

Mr. HUFFMAN. Thank you very much.

And, finally, we will hear from Ms. Meredith Moore, Director of the Fish Conservation Program at the Ocean Conservancy.

Welcome. You are recognized for 5 minutes.

STATEMENT OF MEREDITH MOORE, DIRECTOR, FISH CONSERVATION PROGRAM, OCEAN CONSERVANCY, WASHINGTON, DC

Ms. MOORE. Good afternoon, Chairman Huffman, Ranking Member Young, and members of the Committee. Thank you for the opportunity to speak to you today about the critical challenges facing U.S. fisheries, and the need to make targeted improvements to support sustainable fishing under the Magnuson-Stevens Fishery Conservation and Management Act.

I am Meredith Moore, the Director of the Fish Conservation Program at Ocean Conservancy, a non-profit organization that develops evidence-based solutions for a healthy ocean and the communities that depend on it.

For decades, fishermen, scientists, managers, tribes, and conservation organizations have worked together to successfully implement science-based, sustainable, and accountable fishery management under the requirements of the law. Now, serious chal-

lenges, like climate change, are eroding the successes we have had and threatening the future of fishing. We must adapt our management system to ensure healthy fisheries exist for generations to come.

H.R. 4690, the Sustaining America's Fisheries for the Future Act, accomplishes that task by offering necessary updates to the law that build on the strengths of our current system. Provisions in this bill would tackle the impacts of climate change, improve ecosystem health, support the sustained participation of fishing communities, improve fishery data, and move us toward a more just and equitable fishery management system.

First, H.R. 4690 offers a comprehensive vision for climate-ready fisheries management. Climate change is already disrupting our fisheries. Fish populations are shifting, becoming less productive, and more vulnerable to heat waves and other disasters. But, even as our ocean and fisheries are being reshaped, our management system is largely operating along the same well-worn tracks. A climate-ready fisheries management system will better predict, plan for, and adapt to these climate changes in order to support sustainable fishing.

In order to better respond to current impacts, H.R. 4690 instructs managers and scientists to use the best information and tools available now to consider climate impacts in their management decisions, and to focus on those stocks most vulnerable to climate change.

But the bill also paves the way to the future by ramping up production of climate and fishery science, and by fostering the development of new approaches that can help managers make more informed and adaptive decisions. Fundamentally, we must reduce greenhouse gas emissions to head off the most severe impacts of climate change, but the adaptation actions in H.R. 4690 are critically important to help fish populations, marine ecosystems, and fishing communities withstand the disruptions that are already locked in.

Second, this bill reaffirms our country's commitment to ending overfishing and rebuilding fish stocks. While the existing law contains clear requirements to rebuild stocks that are overfished, in practice, many rebuilding plans have failed.

H.R. 4690 makes important changes to improve the likelihood that existing rebuilding plans stay on track and are successful the first time. And, in cases where they have failed to rebuild the stock, a better plan is put in place next time.

Third, H.R. 4690 includes improvements to modernize our fishery information systems, and to better use electronic technologies. It also directly addresses the need to improve the data systems that keep private recreational anglers accountable to catch limits. The bill establishes a dedicated program within NOAA fisheries to improve recreational fishing data and management. It also recognizes the growing challenge of using data from a suite of new recreational fishing surveys.

A failure to address these issues through the council process has allowed the private recreational sector of the red snapper fishery in the Gulf of Mexico to exceed its quota year after year.

Fourth, this bill strengthens how we manage our impacts on marine ecosystems, like improving the management of forage fish and essential fish habitats. The legislation includes critical changes to better account for and reduce bycatch, including addressing conservation and equity issues by removing the practicability standard.

And, finally, as this bill moves through the legislative process, Ocean Conservancy urges the Committee to support important requests from Alaska Natives and Tribes for the inclusion of subsistence throughout the Act, and the addition of two designated seats on the North Pacific Fishery Management Council.

In closing, I appreciate the thoughtful effort undertaken by Chairman Huffman, his staff, and this Committee, to solicit feedback from stakeholders while developing this bill. That process has produced this forward-looking legislation that would create a more sustainable, resilient, and equitable fishery management system.

Thank you for the opportunity to testify today, and I look forward to working with the Committee and each of you to improve fisheries in the United States.

[The prepared statement of Ms. Moore follows:]

PREPARED STATEMENT OF MEREDITH MOORE, FISH CONSERVATION DIRECTOR, OCEAN CONSERVANCY

Thank you to Chairman Huffman and the Subcommittee for the opportunity to submit written testimony and for the Subcommittee's consideration of H.R. 4690, the Sustaining America's Fisheries for the Future Act, which proposes to amend the nation's premier marine fishery law, the Magnuson-Stevens Fishery Conservation and Management Act (MSA).

Today, our fisheries and the communities they support face a number of growing threats; from climate disruptions to declining fish populations, our fisheries are up against significant challenges and our previous successes are slipping away. For instance, the number of overfished stocks is back to where it was a decade ago,[1] with 20% of known fish stocks at population sizes that are too low and that jeopardize the ability to produce ongoing maximum sustainable yield.[2] At the same time, climate change is dramatically affecting the health of our fisheries, causing fish populations to shift, become less productive and more vulnerable to stress, disease, and heat waves.

Now more than ever, we need to move forward: Congress has an opportunity to sustain and strengthen our fisheries and avoid harmful rollbacks that would damage coastal communities and our ocean. Previous reauthorizations have created a science-based resource management system which has significantly improved the status of fish stocks in the United States, rebuilt fish populations and supported sustainable fishing. The Fisheries for the Future Act continues this progress by offering comprehensive updates to address current challenges, strengthen sustainable management approaches, and prepare our fisheries for the impacts of climate change.

These new legislative ideas are both timely and critical. Fishery management has important environmental, economic and social implications. Indigenous people have stewarded fish and marine ecosystems since time immemorial and remain closely tied to these resources as the foundation for culture, food security and economies. Fishery management also has important economic impacts: in 2017, the fishing and seafood industry supported 1.74 million jobs and generated $244.1 billion in sales.[3] These impacts were enabled in part by the MSA and its requirements to rebuild overfished stocks, prevent overfishing and keep catch to sustainable levels. The core

[1] In 2011, 21% of known fish stocks were overfished. See: NOAA Fisheries. 2012. Status of stocks 2011 Annual Report to Congress on the Status of U.S. Fisheries.

[2] NOAA Fisheries. 2021. Status of Stocks 2020 Annual Report to Congress on the Status of U.S. Fisheries.

[3] NOAA Fisheries. 2020. Fisheries Economics of the United States Infographics, 2017. U.S. Dept. of Commerce: https://www.fisheries.noaa.gov/national/sustainable-fisheries/fisheries-economics-united-states.

rationale for managing stocks at abundant levels remains unchanged: healthy fish stocks better support vibrant marine ecosystems and resilient Tribal and coastal communities and provide opportunities for sustainable fishing. Healthy stocks are now even more important, as they are more resilient to the current and expected impacts of climate change and other anthropogenic and environmental pressures.

Despite the gains made under our current management system, there are serious challenges that jeopardize the hard-earned success of our fisheries. Of note, H.R. 4690 seeks to address difficult challenges caused by climate change impacts, stalled rebuilding plans, and lingering bycatch issues. It also seeks to modernize fisheries science and data and begin to address inequities in our fishery management process by expanding representation, inclusiveness and accountability. Each previous reauthorization of the MSA has made substantial changes needed to improve the law. This bill is no different and makes changes that reflect the scope of the challenges that U.S. fisheries face.

The Sustaining America's Fisheries for the Future Act addresses and improves five key areas of fishery management, which I explain in greater detail in this testimony:

- **Climate-ready fisheries:** Climate change is already impacting fisheries and ocean ecosystems. The oceans are growing warmer and more acidic, circulation patterns are changing, fish populations are shifting their ranges and showing altered productivity, and extreme weather events are becoming more frequent. Every part of the conservation and management of fisheries—the research and survey process, stock assessments, management decisions and fishing practices—will be affected. The proposed changes to the MSA contained in H.R. 4690 would catalyze the adaptive responses needed to address the impacts of climate change on our fisheries.
- **Resilient fisheries and ecosystems:** Over the past 45 years, the U.S. model for fishery management via the MSA has led the world in sustainable fishery management. However, some fine tuning is needed to prevent stocks from declining to levels that require rebuilding, ensuring that rebuilding plans make progress, and ultimately meeting goals to bring stocks back to healthy levels. Additionally, improvements are needed to strengthen how we manage our impacts on marine ecosystems, including addressing critical conservation and equity concerns arising from fishery bycatch.
- **Supporting fishing communities and subsistence fishing:** Amid the backdrop of severe disruptions to fisheries and the seafood supply chain as a result of the COVID-19 pandemic, it is a critical time to improve the MSA to better support fishing communities whose livelihoods and cultures depend on healthy oceans and fisheries. In addition, changes to the law to include subsistence fisheries and Tribes are long overdue.
- **Modernizing fisheries science and data:** Data on what fishermen catch is essential for managing fisheries and assessing the status of fish stocks, but it is often a challenge to collect. Ensuring the accuracy, timeliness and credibility of fishery data is paramount, and updates are needed so that new technologies and innovations are effectively harnessed and that data from many sources can be appropriately integrated into management.
- **Strengthening public process, inclusion and transparency:** The MSA's management system allows resource users to be directly involved in management decisions—a system unlike any other federal resource management framework. The Fisheries for the Future Act improves upon this system by making it more inclusive, ethical, accessible and transparent. In particular, the addition of two designated seats on the North Pacific Fishery Management Council, as requested by Alaska Native Tribes, represents a critical step forward for the future of our fishery management system.

The ambitious scale of challenges tackled in this bill is accompanied by an acknowledgement that more resources will be needed to address them. Section 510 of H.R. 4690 increases the authorization of appropriations, meaning that it gives greater authority to Congress to provide substantially increased funding levels to the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration (NMFS or NOAA Fisheries) and the Regional Fishery Management Councils (Councils). The authorization represents a 50% increase from the level currently specified in the law, accounting for inflation, through fiscal year 2027. I agree with many who have pointed out that addressing the challenges our fisheries face will require more resources to carry out the important work of fishery management—section 510 reflects this much needed workload support. Sustainable and durable management requires time, money, and staff. While not a guarantee of

funding, this increased funding authorization acknowledges that and indicates Congress's commitment to supporting the tools and approaches envisioned by this bill.

I. Climate-ready Fisheries

It is unequivocal that the climate and ocean are changing as a result of greenhouse gas emissions, including carbon dioxide, released by human activity. Each of the last four decades on our planet has been successively warmer than any decade that preceded it since 1850.[4] It is essential that we reduce greenhouse gas emissions at the national and international level so that we can avoid the most extreme and devastating impacts to our fisheries and fishing communities. Because of climate change, the ocean is becoming warmer, more acidic, and lower in oxygen.[5] Additional changes include sea level rise; increases in extreme events, such as hurricanes and marine heatwaves; and worsening coastal erosion and sea ice loss.[6] These impacts have already disrupted where fish are found, what they can eat, where they can live,[7] and has changed the distribution and productivity of fisheries.[8]

Our oceans and the fisheries they support are being reshaped, which means our approaches to management must also change. Strong fishery management can foster the resilience of fish stocks and fisheries to climate change, for example by maintaining adequate fish biomass.[9] Using the best information available, including Traditional Knowledge, managers must strive to understand how our fisheries are changing and which ones are most at risk. Climate change is impacting fisheries now; managers must respond in the near term by adapting to those changes, while continuing to increase the knowledge base and the ability to withstand the further changes to come. Put simply, there are grave costs of inaction, and current management approaches will not be adequate in the future.[10] By working together, fishermen, scientists and managers can chart a course to a sustainable fishing future.

The proposed changes to the MSA contained in the Sustaining America's Fisheries for the Future Act would provide a path to address the impacts of climate change on our fisheries and prepare for the changes ahead in the near and long term. These changes to the law are needed because every part of the conservation and management of fisheries—the research and survey process, stock assessments, management decisions and fishing practices—will be affected by climate change. Managers will need to consider adaptations to ensure sustainable fishing can continue for the long term. Some Councils have demonstrated leadership in assessing the effects of climate change on their fisheries via tools such as Fishery Ecosystem Plans, scenario planning, and engagement with their regional NOAA Integrated Ecosystem Assessment programs. However, managers are still grappling with how to understand climate impacts and adapt management accordingly and there is still a lot of work to do. The agency and Councils need more guidance, tools, and stronger directives in order to more meaningfully integrate climate change into management.

H.R. 4690 would advance climate-ready fisheries by improving the ability of NOAA Fisheries and the Fishery Management Councils to understand, predict, plan for and adapt to the impacts of climate change. The proposed legislation would add tools, authorities, and support to tackle the systemic challenges of climate change. The Fisheries for the Future Act would integrate climate considerations into the regular fishery management cycle, including considering the effectiveness of management measures to ensure resilience and assessing the vulnerability of fisheries to impacts of climate change in order to prioritize action (section 102). New approaches are also included for two significant management challenges: shifting

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[4] IPCC. 2021. Summary for Policymakers. In: Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., et al. (eds.)]. Cambridge University Press.

[5] IPCC. 2019. IPCC Special Report on the Ocean and Cryosphere in a Changing Climate. Geneva: IPCC.

[6] *Id*.

[7] Hollowed, A.B., et al. 2013. Projected impacts of climate change on marine fish and fisheries. ICES Journal of Marine Science, 70: 1023–1037.

[8] Free, C.M., et al. 2019. Impacts of historical warming on marine fisheries production. Science, 363: 979–983; Young, T., et al. 2019. Adaptation strategies of coastal fishing communities as species shift poleward. ICES Journal of Marine Science, 76(1): 93–103.

[9] Kritzer, J.P., et al. 2019. Responsive harvest control rules provide inherent resilience to adverse effects of climate change and scientific uncertainty. ICES Journal of Marine Science, 76(6): 1424–1435.

[10] Holsman, K.K., et al. 2020. Ecosystem-Based Fisheries Management Forestalls Climate-Driven Collapse. Nature Communications, 11(1): 4579.

fish stock distributions (section 105) and the emergence of new fisheries (section 106).

Importantly, Ocean Conservancy agrees with the bill's targeted efforts to provide scientific support and capacity to the Councils and facilitate the use of new tools and approaches. The Scientific and Statistical Committees (SSCs) are well suited to consider climate change when advising the Councils, and climate should be added to Council research priorities. The bill establishes a program to develop innovative tools and approaches to increase the adaptive capacity of fishery management to the impacts of climate change (section 104), which is complementary to efforts underway or in development at NOAA Fisheries, such as the Climate and Fisheries Initiative. The program, which can include grants, creates a much-needed process to support development of science and management approaches and promote their incorporation into management at the Councils. Without these types of changes, management is likely to continue to address climate change in ways that are insufficient, intermittent, and inconsistent.

II. Resilient Fisheries and Ecosystems

Rebuilding Fish Stocks

Over the past 20 years, many Councils have seen success in rebuilding overfished stocks back to healthy levels. Since 2000, 47 stocks have been rebuilt, from black sea bass on the Eastern Seaboard to cowcod on the West Coast.[11] Healthy stocks are an important part of ocean ecosystems and provide opportunities for sustainable fishing now and in the future. Rebuilt stocks are among key commercial and recreational fisheries. For example, sea scallops on the Atlantic Coast, rebuilt in 2001, had catch valued at $569.9 million in 2019, and scup, rebuilt in 2009, was a top species for recreational harvest.[12] Rebuilding plans have been identified as a key tool for recovering stocks, and in the face of climate change and other anthropogenic and environmental pressures, keeping stocks at healthy levels is critical for ensuring fishery resilience.

However, many stocks in need of rebuilding have not experienced such success. Nationwide, starting in 2017, there has been a concerning increase in the number of stocks declared overfished and in need of rebuilding (see Figure 1 below). Of the 47 stocks rebuilt, eight have become overfished again after rebuilding, indicating that measure taken after rebuilding were not enough to prevent stocks from declining once more. At the same time, many plans to rebuild stocks simply don't succeed (i.e., they reach the end of their rebuilding time period with stocks still overfished) and some stocks have faced years of continued overfishing while being managed under a rebuilding plan. Of the 41 stocks currently in rebuilding plans with set time limits, 10 are in a second or even third plan after the first plan failed, and some stocks are subject to plans with no set timeline.[13] Many of these stocks just continue to decline—60% of stocks in rebuilding plans in 2020 had flat or declining biomass.[14]

Ocean Conservancy supports the changes to rebuilding (section 504) that would do more to prevent stocks from declining to levels that require rebuilding and to ensure that rebuilding plans make progress and ultimately meet goals to bring stocks back to healthy levels.

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[11] NOAA Fisheries. 2021. Fishery Stock Status Updates Rebuilt Stocks by Region: Update as of September 30, 2021. Available at: https://www.fisheries.noaa.gov/national/population-assessments/fishery-stock-status-updates#quarterly-updates-02.

[12] NOAA Fisheries. 2021. Fisheries of the United States, 2019. U.S. Department of Commerce, NOAA Current Fishery Statistics No. 2019 at xxv. Available at: https://www.fisheries.noaa.gov/national/sustainable_fisheries/Fisheries-united-states.

[13] Calculated using data from NOAA Fisheries. 2021. 2020 Fish Stocks in Rebuilding Plans: A Trend Analysis.

[14] NOAA Fisheries. 2021. 2020 Fish Stocks in Rebuilding Plans: A Trend Analysis.

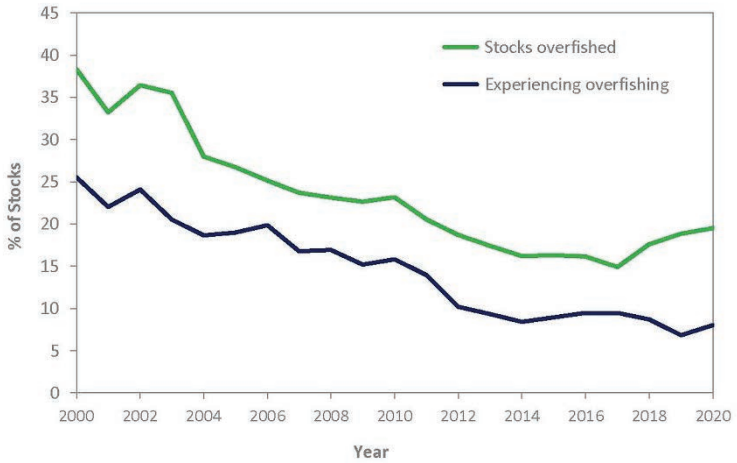

Figure 1: Percent of stocks that are overfished or experiencing overfishing since 2000. Data compiled from NOAA Fisheries Status of the Stocks Annual Reports to Congress on the Status of U.S. Fisheries.

Great amberjack in the Gulf of Mexico provides an eye-opening example. It is now in its third rebuilding plan after it was determined to be overfished in 2000. The first two plans failed, the timeline to rebuild was pushed back, and overfishing has continued on the stock. Great amberjack was initially supposed to be rebuilt by 2009, yet now the target is 2027. The most recent stock assessment indicates the stock has been experiencing overfishing in every year since at least 1985.[15] As of 2020, overfishing continues on the stock and it remains overfished. The bill would address this unusual, but egregious, sort of inaction to end overfishing and rebuild the stock by tightening NOAA Fisheries' oversight role and addressing the question of how management should operate in the face of rebuilding failures.

The Sustaining America's Fisheries for the Future Act addresses many of these challenges associated with rebuilding and overfishing. The solutions offered in this bill include:

- *Act when stocks are near overfished levels to avoid the need to rebuild.* Rebuilding can be a challenge, and it makes sense to avoid having to rebuild stocks in the first place by taking steps to improve stock health before stock size falls below the overfished threshold. The MSA includes provisions that allow for a stock to be designated as "approaching an overfished condition," but the designation is not frequently or effectively used. Improving the use of this designation could help the Fishery Management Councils and NOAA Fisheries avoid rebuilding plans by having more advance warning and taking earlier steps.
- *If a rebuilding plan fails, make the next plan better.* The MSA currently has no guidance for what to do when a rebuilding plan fails. The Fisheries for the Future Act addresses this by clarifying that, in the instance that an existing rebuilding plan fails to rebuild a stock by the end of the plan, the next rebuilding plan should have a 75% likelihood of success when designed. This provision of the bill has been widely misunderstood. The change to 75% would not apply to all rebuilding plans and does not require current rebuilding plans to be revised. This would only apply to stocks that reach the end of their rebuilding cycle and have not rebuilt, which is a circumstance that most Councils have not experienced. Since repeated rebuilding failures increase the risk of stock collapse and leave fishermen with constrained catch levels for longer periods, successful rebuilding is the quickest path to better fishing. This change would seek to end the rebuilding plan purgatory that many

[15] SEDAR. 2020. Southeast Data, Assessment, and Review (SEDAR) 70 Stock Assessment Report: Gulf of Mexico Greater Amberjack. SEDAR, North Charleston, SC.

stocks are now trapped in by ensuring management measures are sufficient to rebuild.

- *Improve the monitoring of rebuilding progress in a plan.* The MSA currently suggests that the Secretary of Commerce and Councils should monitor and respond to signals that stocks are failing to make adequate progress to rebuild during a plan. NOAA Fisheries currently has criteria in its regulations for making these determinations,[16] but the agency's criteria are disconnected from whether the stock's biomass is actually increasing. Further, monitoring of adequate progress has been unevenly applied and, in many rebuilding plans, managers have completely failed to adapt or improve their rebuilding plans while biomass remains flat or continues to decline. Adaptive management during rebuilding will be even more important as climate impacts increase. The Fisheries for the Future Act would clarify the description of what constitutes adequate progress, strengthen the procedures needed to respond to failures to make progress, and increase transparency in NOAA Fisheries' reporting around rebuilding plan progress. For many Councils, adapting management plans to ensure rebuilding success is already a common practice, and plans have been designed and implemented in ways that have shown great results in rebuilding. For Councils with stocks struggling to rebuild, these changes will help ensure that rebuilding stays on track. If Councils fail to take action to put measures in place to make progress on rebuilding, the Secretary takes action to do so to ensure changes are made within 2 years. This is similar to the current provision 304(e)(5) in the law, in which the Secretary is required to create a rebuilding plan for an overfished stock when a Council fails to do so.

Though the Fisheries for the Future Act includes a number of useful changes to the rebuilding provisions, we are concerned with the removal of the current requirement that rebuilding plans for overfished species shall not exceed 10 years unless stock biology, environmental conditions, or other factors mean that timeline is not possible. Research indicates that most stocks can be rebuilt within this time frame, and removing the requirement makes it harder for fishery managers to make difficult decisions on reduction in catch when stocks are overfished.[17] This is especially true for stocks that are targeted, have high economic value, and are fast-growing. For example, petrale sole, which is the third highest value groundfish species on the West Coast, was declared overfished in 2010. It was rebuilt in 2015—one year ahead of schedule—because harvest levels were cut in half under the rebuilding plan.[18] Petrale sole likely would have remained overfished for much longer if a rebuilding plan that exceeded 10 years had been an option. Therefore, we recommend retaining the 10 year requirement, which has a record of success and will be a complement to the strengthening of the other rebuilding provisions in the law.

Ocean Conservancy is also concerned with the removal of the key term "overfished" and its replacement with the term "depleted" in sections 504 and 505. We appreciate that Rep. Huffman has been clear, both in the drafting of the legislation and in comments to the public, that the intent of this change is to minimize the stigma of fault and recognize environmental and other factors that play a role in the productivity of a fishery, and that no change is intended to the rebuilding requirements in the law as a result. However, we remain concerned that the term change could increase political pressure on the Council process and add to the difficulty for fishery managers to compel reductions in fishing mortality at the outset of and throughout a rebuilding plan. Regardless of the cause of the decline in abundance, a reduction in fishing pressure is the most immediate means of bringing the stock back to healthier levels and improving fishery productivity long-term.

Bycatch

Bycatch, the unwanted or unintended catch of non-target fish and other wildlife, is a serious problem with ecological, equity and economic impacts. Bycatch has substantial impacts on marine ecosystems, as bycatch is often discarded dead or dying, and addressing this issue should be a priority for MSA reauthorization. Section 503 of the bill proposes important changes to drive our fishery management system

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[16] *See* 50 C.F.R. § 600.310(j)(3)(iv).

[17] Safina C., et al. 2005. US Ocean Fish Recovery: Staying the Course. Science, 309(5735): 707–08; Patrick, W.S. and J. Cope. 2014. Examining the 10-Year Rebuilding Dilemma for U.S. Fish Stocks. PLoS ONE, 9(11): e112232.

[18] Pacific Fishery Management Council. 20145. "West Coast Groundfish Stocks Improve." Press release. June 15, 2015. Available at: https://www.pcouncil.org/documents/2015/06/canary-and-petrale-sole-stocks-improve.pdf/.

toward greater bycatch reduction. Currently, the MSA requires only minimal action on bycatch, and inconsistent reporting means the full scale of the bycatch problem is not well known. The Fisheries for the Future Act would close loopholes in the law that are preventing meaningful bycatch reductions and would improve reporting of bycatch to ensure standardization across fisheries. Creating a standardized bycatch reporting methodology that is more consistent across fisheries and regions will improve understanding by managers and scientists of opportunities for and obstacles to reducing bycatch.

The most notable change in H.R. 4690 regarding bycatch is the proposal to remove "to the extent practicable" from the bycatch standard. Currently, MSA's National Standard 9 states:

> "(9) Conservation and management measures shall, to the extent practicable, (A) minimize bycatch and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch." [19]

This existing language applies two qualifiers to controlling bycatch: fishery management plans must (1) "minimize" bycatch and the mortality of such bycatch, and must (2) only do so "to the extent practicable." Thus, the law does not require bycatch to be prevented; it merely needs to be "minimized" and that minimization merely needs to be "to the extent practicable."

The "practicability standard" thus provides a double layer of latitude in the consideration of measures necessary to address bycatch. Removing the practicability standard still maintains the qualifier that bycatch only needs to be minimized but not prevented. In other words, bycatch would not be prohibited by removing the practicability standard. This change would allow for meaningful bycatch reductions, and would provide direct benefits to fishermen, communities and ecosystems that depend on directed fisheries for species caught and discarded as bycatch in other fisheries.

Pacific halibut bycatch in the Bering Sea Aleutian Islands is a key example of this problem. The directed Pacific halibut fleet is primarily a community-based fishery that supports coastal and Alaska Native communities across this remote region. While quotas have been reduced for the directed halibut fishery due to declining Pacific halibut stock, industrial trawl fisheries continue to catch large amounts of halibut as bycatch, using the "practicability" standard as a primary justification.[20] Bycatch of Pacific halibut is in fact increasing in proportion to directed fishery catches, and bycatch of halibut actually exceeded directed fishery removals from 2012–2014.[21] Overall, Bering Sea trawl fisheries caught over two times more Pacific halibut than the directed fishery was able to intentionally catch from 2010–2019. These communities now find themselves on the brink of economic and cultural collapse due to the lack of equity built into a management system that allows large-scale trawl fisheries to take a disproportionate amount of catch as bycatch, thereby reducing fish available to the directed halibut fleet.

The bill would also create greater standardization of bycatch data by adding a national component to standardized bycatch reporting methodology, which is currently only required at the level of a fishery management plan. This would create nationally standardized requirements for collection, reporting, and assessment of bycatch data. Many regions have continually supported affordable and effective bycatch monitoring and reporting programs, including the use of electronic monitoring systems when appropriate, and achieved individual accountability through catch share programs; however, inconsistent reporting of bycatch around the country means the full scale of the problem is not well known.

Resilient Ecosystems

Healthy fish stocks make sustainable fisheries possible. Healthy habitat—from seagrass beds to kelp forests and coral reefs—and abundant prey populations are

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[19] 16 U.S.C. § 1851(a)(9) (emphasis added).

[20] NPFMC. 2021. Draft Environmental Impact Statement (DEIS) for the Bering Sea and Aleutian Islands (BSAI) Halibut Abundance-Based Management (ABM) of Amendment 80 Prohibited Species Catch (PSC) Limit; September 2021. Anchorage, AK. 527 pp (e.g. page 32, reasoning that practicability should be set by historic levels of bycatch and current efforts and limited by the potential to cause economic harm to the groundfish fishery, in short, allowing "practicable" to be defined as what it considered to be immediately achievable: "The practicability of the Amendment 80 fleet to operate under reduced PSC limits relies on a number of different factors and behavioral modifications by the fleet in recent years . . . Because of the efforts and expenditures already undertaken by the sector, dramatic increases in halibut avoidance or reductions in mortality are not expected with the tools that are currently available to the fleet.").

[21] *Id*. at 127 and 170.

key components for maintaining fish stocks. Maintaining the structure and functioning of ecosystems is essential to ensure fish and fisheries are able to survive and thrive. Furthermore, protecting habitat and the forage base is critical for preparing marine ecosystems for the effects of climate change.

The habitats that fish stocks depend on are increasingly under threat and more must be done to ensure long term and effective protection for fish habitat. Protecting the diverse marine habitats that support fish populations is an important but underutilized element of sustainable fishery management under the MSA in many regions. We are thankful that H.R. 4690 includes improvements to the MSA's habitat provisions (see sections 501, 502 and 507), including a proposal to avoid damage to fish habitats from non-fishing activities and improvements to the process by which essential fish habitat (EFH) is designated, reviewed, and managed in order to meet goals for the fishery and ecosystem (section 507). The Fisheries for the Future Act would strengthen tools to protect EFH from the impacts of fishing gear, as well as safeguard habitat from non-fishing activities such as sand mining, dredging, and energy exploration (section 502). These changes would bring greater clarity and more national consistency to how EFH is identified and conserved.

Forage fish are a critical part of marine ecosystems, providing a foundation for ocean ecology and food for many important marine mammal and fish species, including those that support recreational and commercial fisheries. The bill includes provisions that would strengthen precautionary management of forage fish and better account for their ecosystem role. H.R. 4690 directs the Secretary (NOAA Fisheries) to define forage fish, requires an assessment of the potential impacts of a new commercial forage fish fishery, and would require consideration of predator needs in existing fishery management plans (section 508). Ocean Conservancy is supportive of strengthening management of forage fish and accounting for their ecosystem role, and we note that Rep. Dingell's bill, H.R. 5770, contains similar provisions.

III. Supporting Fishing Communities and Subsistence Fishing

The MSA seeks to balance conservation and resource use. Amid the backdrop of severe disruptions to fisheries and the seafood supply chain as a result of the COVID-19 pandemic, it is a critical time to improve the MSA to better support fishing communities whose livelihoods depend on healthy oceans and fisheries. In addition, changes to the law to better reflect Tribal fisheries and subsistence fishing are long overdue.

Ocean Conservancy is supportive of the bill's proposals to reform fishery disaster declarations (section 201) and revitalize working waterfronts (section 203). As the impacts of climate change worsen, there is greater likelihood of extreme events, such as harmful algal blooms, floods, and marine heatwaves, which can contribute to fishery disasters.[22] Ocean Conservancy supports improvements to accelerate the fishery resource disaster relief program by implementing timelines for faster delivery of disaster relief to impacted communities, including strengthening charter for-hire and Tribal eligibility, and by allowing direct payments to be made to affected members of fishing communities as an eligible use of relief funds. Disaster relief process reform is a key priority for ensuring fisheries are better able to endure unusual events like marine heat waves and oil spills. Earlier this fall, the Senate unanimously passed similar language for fishery disaster reform. Similarly, Ocean Conservancy supports infrastructure investment, and access to fishing port facilities is critical for the future success and stability of fishing communities. A Working Waterfront Grant Program is needed to preserve and expand access to coastal waters for dependent businesses, provide access loan funds for waterfront preservation, and to identify and prioritize critical needs for working waterfronts.

While disaster reform and fishing port infrastructure improvements will support access for all fishing sectors and provide support when it is needed most, we must also do more to ensure community participation in limited access privilege programs (LAPPs) by increasing consideration of community sustainability. In regard to section 205, past experience with LAPPs has shown that without safeguards in place, LAPPs can result in a paradoxical situation in which fishing communities have no rights to the fisheries that surround them. The proposed changes to the provisions on fishing communities for LAPPs provide improvements to help ensure that any new LAPP considers direct allocations to fishing communities that depend on that managed fishery.

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[22] Government Accountability Office. 2016. Federal Fisheries Management: Additional Actions Could Advance Efforts to Incorporate Climate Information into Management Decisions. GAO-16-827. Washington, D.C.

Ocean Conservancy supports securing representation of Native American Tribes in the fishery management process and respecting Tribal sovereignty, though I defer to Tribes as to the sufficiency of the proposed definition of subsistence fishing. Further, Traditional Knowledge must be considered in decision-making.

IV. Modernizing Fisheries Science and Data

Reliable, accurate and timely data are a core part of effective fishery management. Advances in technology are rapidly changing the world around us, but fisheries have largely been left behind in this digital revolution. Though the U.S. fishery management system is one of the most advanced in the world, its continued success in maximizing ecological, economic and social benefits relies on high quality information to inform sustainability measures. The data collection and management systems in use today are often outdated and are incapable of meeting the demands now placed on them by modern management systems and rapidly shifting ecosystems due to climate change. The Sustaining America's Fisheries for the Future Act would provide investment and momentum to ensure that new technologies and innovations are effectively harnessed and that data from many sources can be appropriately integrated into management.

Well-implemented electronic monitoring and reporting programs can yield important gains in the efficiency of data collection and processing and can improve the quality of data. Successful programs like the new electronic logbook program for Gulf of Mexico charter for-hire and headboat vessels[23] have demonstrated the benefits of electronic reporting by improving the timeliness and accuracy of catch data. However, nationwide uptake of electronic technologies in U.S. fisheries has been somewhat slow, and changes to the MSA can promote greater development and adoption. H.R. 4690 would require a review of existing electronic technology capabilities at NOAA Fisheries and would facilitate implementation of electronic technologies for monitoring and reporting in all regions (section 402).

In addition to improving technology on boats, H.R. 4690 looks to improve data infrastructure at NOAA by supporting continued progress on implementing the Fisheries Information Management Modernization (FIMM) initiative in section 401.[24] This will facilitate much-needed improvements in the collection, intake, use, storage, and access to data from Federal and non-Federal sources. The FIMM initiative makes crucial recommendations that would modernize the internal data governance and management landscape at NOAA, which would result in improved data efficiency for data end-users. For instance, implementing NOAA Fisheries-wide cloud-based data science platforms would add accessibility to data while also protecting critical networks which are currently housed in siloed servers. There are significant vulnerabilities to fisheries data in their current state, and expanding the internal infrastructure and data management workforce will secure data and improve efficiency.

Section 406 seeks to address ongoing issues with recreational fishing data in the U.S., particularly to better understand the impact of private angling. Collecting accurate and timely data on this sector is one of the most challenging parts of implementing accountable and sustainable management under the MSA, given the large number of recreational fishermen, the many points of access they use, and the fact that any retained catch is kept rather than sold. To get a sense of the scale of recreational fishing, in 2017, NOAA Fisheries estimates that 9.8 million anglers took over 205 million fishing trips.[25] In many regions, commercial, for-hire, and private recreational anglers are participating in the same fisheries, but differences in data quality and management accountability have resulted in private anglers regularly exceeding their portion of annual catch limits, which creates serious issues around the sustainability of shared stocks and inequities in management. This problem has manifested most acutely in management of the private recreational sector of the red snapper fishery in the Gulf of Mexico, where inconsistencies in survey design and a lack of data calibration are preventing accurate catch accounting and have allowed the private recreational sector to substantially exceed its quota, in violation of the MSA.

Improving recreational data collection will lead to more effective management of recreational fishing and benefit fish stock sustainability. The Fisheries for the Future Act would require NOAA Fisheries to establish guidelines to improve

[23] Southeast For-Hire Integrated Electronic Reporting Program. Available at: https://www.fisheries.noaa.gov/southeast/recreational-fishing-data/southeast-hire-integrated-electronic-reporting-program.

[24] Margolis, S., et al. 2020. Fisheries Information Management Modernization Workshop. NOAA Tech. Memo. NMFS-F/SPO-204, 85 p.

[25] NOAA Fisheries. 2021. Fisheries Economics of the United States, 2017. U.S. Dept. of Commerce, NOAA Tech. Memo. NMFS-F/SPO-219, at 14.

recreational catch data and to integrate data from multiple sources. This provides critical support to help managers bring disparate data sets together to improve science and management outcomes. Further, H.R. 4690 establishes a new dedicated program to improve the data and management of recreational fisheries; this program will focus on key research priorities, including improving surveys, using electronic technologies for reporting, increasing our understanding of discard mortality, and investigating new management approaches like the use of tags.

V. Strengthening Public Process, Inclusion And Transparency

The majority of federal marine fisheries are managed through a complex process involving the Councils and NOAA Fisheries. The Council system established under the MSA gives fishery stakeholders a unique role in decisions about fishery resources through the Council process. In practice, Councils consist largely of state officials and members that are nominated by state governors and appointed by the Secretary of Commerce that are typically commercial and recreational fishing representatives. This has created a management system unlike any other federal resource management framework in which the resource users are directly involved in making the management decisions. This system has many benefits, as it helps ensure that fishery management decisions are tailored to the unique circumstances of the regional fisheries and fleets. However, many voices are left out, and there are concerns that critical fishery management decisions are being made solely by people with a financial interest in the outcomes.

Successful management must, by necessity, be transparent and inclusive. Council membership should include consideration of a broad range of voices, including Tribes, subsistence fishermen, and conservation interests. To this end, the changes to Council membership in the bill are important steps toward broader representation and more balanced Councils, which will ultimately lead to better management. Ocean Conservancy supports fair and balanced apportionment and consideration of all qualified stakeholders, such as members of the conservation community, scientists, non-consumptive users, and Indigenous and Tribal communities as applicable, in addition to the consideration of active participants (or their representatives) in the commercial, recreational, and subsistence fisheries under the jurisdiction of the Council.

In addition to incorporating subsistence and Tribal interests as groups to be included and balanced in Council appointments, two designated Tribal seats would be added to the Council make-up in the North Pacific (section 302), and the bill would remove term limits for the Tribal seat on the Pacific Fishery Management Council (PFMC, section 301). Tribes in the North Pacific have a history of fishing and stewardship that long predates the Council system and are inextricably linked to this ecosystem, yet they have no designated seats on the North Pacific Fishery Management Council (NPFMC). Adding Tribal seats to the NPFMC is an essential and long overdue change, and we are happy to see it included in this bill. Additionally, the Tribal seat on the Pacific Council represents Tribal sovereigns and, therefore, should receive equal treatment as the other government seats on the Council, which are not subject to term limits. Ocean Conservancy supports these requests from Tribes.

H.R. 4690 also clarifies the relationship between the Fishery Management Councils and the Secretary of Commerce. Under the existing law since 1976, the Secretary is tasked with reviewing all fishery management plans, amendments, and proposed regulations received from the Councils for compliance with legal requirements.[26] Absent Council action, it is imperative that the Secretary ensure conservation and management. Section 506 of the bill clarifies that the Secretary has the final responsibility to ensure legal and sustainable fishery management plans are in place in situations where necessary measures have not yet been implemented. The existing Secretarial action provisions only apply when "the appropriate Council fails to develop" a needed fishery management plan or amendment, and this element will remain unchanged.[27] Thus, while H.R. 4690 clarifies the Secretary's duty to fill regulatory gaps, it does not diminish the Councils' central role in management and the regulatory process.

Another important change is providing greater clarity to Councils with respect to lobbying. As federal grant recipients, Councils are prohibited from using federal funds to lobby Congress or the executive branch in connection with the federal funding they receive, pursuant to 31 U.S.C. § 1352 and implementing regulations. The Councils are also prohibited from attempting to influence Federal and State legislation under 50 CFR § 600.227 with very limited exceptions. However, confusion

[26] *See* 16 U.S.C. § 1854(a)–(b).
[27] 16 U.S.C. § 1854(c)(1)(A).

over these existing prohibitions persists. H.R. 4690 would add clarity and accountability, ensuring that the Councils get lobbying practices under control so that funding for fishery management is not put at risk. Notably, the executive branch lobbying prohibition in the bill does not encompass the routine communication the Councils undertake with NOAA Fisheries during the fishery management process and will leave the unique and important relationship between the Councils and NOAA Fisheries intact.

Further, we are happy to see language that works to address long-standing issues with sexual harassment at the Fishery Management Councils and with fisheries observers. All federal agencies should have zero tolerance for sexual harassment, whether committed by agency staff or by the members or staff of bodies they govern, such as the Councils. We support applying the full suite of federal sexual harassment rules to Council staff, members, and advisory panels, as well as the necessary result that offending persons be individually liable for their actions—with the Secretary authorized to impose civil penalties including suspension or expulsion from participation or membership (Section 305(a)). This change will reduce incidents of harassment by increasing the consequences for perpetrators and by increasing survivors' confidence in their ability to effectively respond to harassment when it occurs. We also support the amendments to 16 U.S.C. § 1857(L), which clarify that sexual harassment is prohibited both on and off vessels, and whether or not it is committed forcibly (Section 307(f)). Overall, we expect these changes will reduce harassment as well as make it easier for Council staff and employees to comply and to know when compliance has been achieved.

VI. Closing thoughts

In stark contrast to the Sustaining America's Fisheries for the Future Act (H.R. 4690), the Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act (H.R. 59), would set back decades of improvements in fishery management. H.R. 59 would reauthorize the MSA with provisions aimed directly at weakening the core conservation requirements of the MSA. Undercutting the fundamental principles of fishery management, H.R. 59 would reverse decades of substantial improvements to how we sustainably fish by creating loopholes to science-based management, watering down legal standards, and promoting costly delays. Specifically, the bill:

- Unnecessarily lengthens rebuilding time frames for unhealthy stocks, leaving them vulnerable for longer, and provides harmful exemptions from having a rebuilding time frame at all, no matter how unhealthy the stock (section 303).
- Ends sustainable management for stocks that are not the main target of fishing by exempting them from annual catch limits (ACLs), even if they are caught and sold. This removes protections for possibly hundreds of species, vastly increasing the risk of overfishing (section 204).
- Exempts recreational fisheries from robust science-based limits, instead permitting the use of weak "alternative fishery management measures" that have resulted in significant overfishing in the past (section 203).
- Curbs the development of innovative management techniques and scientific studies by adding onerous new requirements for Exempted Fishing Permits (EFPs), making them incredibly difficult to use (section 304).

H.R. 59 would put coastal communities at risk and could have devastating impacts on our fisheries and those who depend on them. By exempting fisheries from ACLs, H.R. 59 would allow overfishing to occur where it currently is not happening. When our fisheries are depleted, our coastal communities are put at risk. The economy of our fishing communities is dependent on the health of the fisheries that surround them. Fishermen, business owners, and scientists have all opposed these ideas before in previously introduced and nearly identical bills. Unlike past reauthorizations of the MSA, H.R. 59 would erode the successes we have made in fishery management, impairing our fisheries and coastal communities alike.

Thank you to the House Natural Resources Subcommittee on Water, Oceans, and Wildlife for its careful consideration of H.R. 4690, and for the opportunity to provide this testimony in support. The proposals offered in the Sustaining America's Fisheries for the Future Act would enhance our ocean's long-term ability to provide food and support businesses, recreation, culture and thriving coastal communities. I look forward to working with you and your staffs throughout this Congress and in the future.

Mr. HUFFMAN. Thank you very much, Ms. Moore.

That concludes the witness testimony. We will bring it back to the Members for questions, and Ranking Member Young has another commitment, so we are going to go out of order and yield to him for the first questions.

Mr. YOUNG. Thank you, Mr. Chairman.

And, Meredith, I will say one thing. If I hadn't passed my bill, you wouldn't be sitting there. I remember that back in 1976.

I would ask Mary Peltola: You want two members on the council, yet you support his bill. Under his bill, the council loses their authority to manage the fish. It goes to the Secretary of Commerce.

What good are two members of the council—although their being native, what will it help you if you don't have the authority to make decisions on the council?

Ms. PELTOLA. Thank you, Mr. Chairman. And thank you, Congressman Young, for creating the bill to begin with.

On the North Pacific Fishery Management Council, at least—and that is the only body that I have experience among the eight councils that this legislation has—there is complete deference to the Alaska Department of Fish and Game, to the Commissioner of Fish and Game.

So, I am not sure that H.R. 4690 does give complete authority to the Secretary of Commerce. But, even if it were to, it would be a better system than the one Alaskan Natives are under at the current moment. We went before the North Pacific Fishery Management Council in October and asked—even as a bottom-level request, asking for an Alaska Native to be on their advisory panel or their Scientific and Statistical Committee, they wouldn't even consider it, on their own advisory panels.

There is a movement in the Department of Fish and Game, in my opinion, because of a lack of recognition of tribes, a complete—I want to say the word poo-poo, but I know that is not right—minimization of the situation that we are in. We are now down to 20 percent of our historical subsistence harvest—20 percent for Chinook salmon, and zero percent for chum salmon. And there is still a movement for erasure and complete assimilation.

I don't think that the Secretary of Commerce would be as anti-tribe as the Department of Fish and Game is at this time.

Mr. YOUNG. I was just curious, because I want the count. This is the difference between the Chairman and myself. I believe the councils can actually manage the fish better than a centralized political figure. That is a matter of opinion.

But I support the idea of two members, and I told you that today in my office. Mr. Chairman, this young lady campaigned for me when she was 3 months old, and I have always cherished that. Her mother was very active in my campaign.

Mr. HUFFMAN. I thought you were against child labor.

Mr. YOUNG. No, labor hadn't come until 6 months later.

But anyway, Mr. Carroll, I appreciate your comments stating Trident is a great company in the state of Alaska. Where you have a difference of opinion with the Chairman and the reports that come out, I do recognize that there has been great progress in the bycatch.

We still have too much, and I would like suggestions from your great company in maybe how we can lower that, because you are constantly saying it is the trollers, it is the trollers, it is the trollers.

And I remember when you were catching a huge amount of fish that shouldn't have been caught—I think about 89 percent decrease in that amount. And I am just telling you this, Mr. Carroll, get all the information you can, factual, to the Committee so we can compare notes and see who is right and who is wrong. Because there are two differences of opinion here.

I actually think you can do better. I have said that before. But you have come a long ways from the way you were before.

So, I thank all the witnesses.

I do have to leave, Mr. Chairman. Thank you. Hopefully, we can get together and write a bill. That is very, very important. If we don't write a bill—you have to give me a little bit, or it is not going to go anywhere. That is it.

Mr. HUFFMAN. We are going to work it out, Congressman Young. And I am going to talk with you a little further about this perception that the council is not managing the fish under this bill. We think they definitely are.

Mr. YOUNG. See, that is where you work it out to make sure.

Mr. HUFFMAN. We are going to work it out.

Mr. YOUNG. They have to have the say, not the Secretary of Commerce.

Mr. HUFFMAN. Yes.

Mr. YOUNG. Because I might be the Secretary, then where will you be?

Mr. HUFFMAN. Really?

Mr. YOUNG. Yes.

Mr. HUFFMAN. Oh.

Mr. YOUNG. All right. Thank you.

Mr. HUFFMAN. I thank the gentleman.

The Chair now recognizes Mr. Case for 5 minutes.

Mr. CASE. I think all you have to do is figure out a way to make him the Secretary of Commerce and everything will be cool. OK.

Mr. HUFFMAN. We have to get him confirmed by the Senate, though, and he has a lot of baggage.

Mr. CASE. Chair Aila, are you still on? I think you are.

Mr. AILA. Yes.

Mr. CASE. Thank you so much for your testimony, Chair Aila.

Your written testimony is very compelling, and I appreciate the concise responses on the bill itself, which we are trying to get this worked out in the language itself. I think we understand the concepts, but we need to get it right in the legislation.

There has been for a long time a prohibition on lobbying and political influence exertion under the OMB regulations and the Byrd rules. Clearly, I think your testimony and your personal experience is that WESPAC was lobbying and exerting political influence. Is that correct?

Mr. AILA. For many years, yes.

Mr. CASE. Right. I mean, and they have done it across the board. I mean, they have done it in the congressional delegation perspective, they have done it certainly inside the Department of

Commerce, they have done it with the President and the Administration itself in terms of the designation or the expansion or what they want to do, which is to open up the monuments to fishing again and to really reduce the monuments.

I mean, they did, in your view and experience, directly try to influence those decisions, correct?

Mr. AILA. They have also tried to influence the governor in not incorporating state waters into the monuments—several governors—and the State Legislature.

Mr. CASE. OK. And we are obviously trying to fix that in our language. I mean, we are taking the OMB regulations and trying to statutorily implement them in this context and expand them to make sure that we cover things like perceived ambiguities, at least on their part, as to presidential designations.

So, that all is understood, I think, and it is crystal clear that they were, in fact, acting in derogation, I believe, of the regulations.

But I want to get to a point that you made, which is that you said that NOAA oversight had been lacking.

Now, was it obvious to everybody in your time on the council and afterwards that, in fact, the council was lobbying and was exerting political influence? And if that was the case then, it is one thing for them to do it, but it is another thing to ask ourselves the question: Where was NOAA in all of this?

Mr. AILA. Yes. And, in fact, if you look at the language in Magnuson, the fishery councils are advisory to NOAA. They do recommend fisheries management plans and fisheries regulations, but NOAA is the ultimate adopter of these fisheries management plans, et cetera.

For a long time, I think, the Western Pacific Fisheries Management Council—I don't have any specific information to other councils—certainly acted as if they were the decision-making body and the implementer. NOAA has been missing in action, so to speak, for quite a few years.

Mr. CASE. So, let me ask you this. And I think you heard the earlier testimony when I asked the Administrator, was there any—and this was in response to the audit that you and I have just referenced, have both referenced—I asked her whether she felt that NOAA had full statutory authorization to provide adequate oversight of WESPAC in this case, but any fishery management council. And she said that she would review that and get back.

I think the answer is that they are able to enforce their own laws. So, I am guessing that the answer is just not so much that they don't have the statutory authority to do it, but that they haven't done that.

Would that be your perception also, or do you have a different perception?

Mr. AILA. That has been my experience. Also, my experience has been that some Pacific Fisheries Management Council legal attorneys that are provided by NOAA have not all—well, have in the past, I think, indicated where fisheries—I think, where some of the management proposals by WESPAC have sort of skirted the law. And that is where NOAA, I think, could create a stronger role by just making sure that council advice is heeded.

Mr. CASE. OK. So, I just want to be sure that I kind of have this straight, because, like I said to the Administrator, I don't want to miss the opportunity when we are trying to get Magnuson-Stevens improved to add some authority that somehow they feel they don't have to adequately oversee those councils.

Mr. AILA. I think the amendments, as proposed in the current version, making the Executive Director a Federal employee, thus having to fulfill all of the ethics requirements, and then making council members, advisory members, and scientific and statistical committee members also beholden to following all of the Federal laws with regards to lobbying, ethics, et cetera. I think that will have a major impact on future fishery decisions resulting in helping in better management.

Mr. CASE. OK. Thanks so much, Chair. Again, back to you.

Mr. HUFFMAN. I thank the gentleman.

The Chair now recognizes Mr. Carl for 5 minutes.

Mr. CARL. Thank you, Mr. Chair.

Thank you to all the expert witnesses. I know with all the distractions—it never hurts to cut the microphone on, does it?

Thank you, Mr. Chairman.

I know with all the distractions going on you feel like we are probably not listening, but trust me, we are. We have it recorded, and we have it here in print. And I thank you for your time to come here and do this.

During my short time on this Committee, there has been a lot of talk about the best science when it comes to managing fish.

I don't think the best science necessarily lies with the Federal Government's old ways of doing things. If something new and better comes along, like what the Gulf states are doing, the Federal Government should pay attention and adapt.

Dr. Powers, if I may, sir, it is so good to see you on the big screen up here with us today. I think the last time I saw you we were out on the Gulf fishing together. Thank you for being here.

For those who don't know Dr. Powers, he is a constituent of mine at the University of South Alabama and is an expert in fishing management.

Dr. Powers, can you talk a little bit about the fishery data Alabama and the Gulf states are producing on their own, like the Snapper Check and the Great Red Snapper Count, and why Congress in their reauthorization process may need to make the term "best science available" more inclusive?

Dr. POWERS. Sure. Thank you, Congressman Carl.

I agree that the meaning of "best available data" or "science" needs to be updated. When the Act and the National Standard Guidelines were originally developed, there was really only one source of information. By default, it was the best. But more and more states, particularly in the Gulf, are spending significant resources on their own landings information systems and scientific fisheries independent survey.

In Alabama, for example, there has been a push to improve the state's ability to develop the data and science necessary to manage its own fishery.

In my lab, we have been conducting fisheries independent surveys to estimate absolute abundance of reef fish offshore and

doing surveys before and after the fishing season to look at what has been removed from the system as a way to get at fishing mortality.

The state has also invested heavily in their Snapper Check Program, which has now been expanded to a lot of other reef fish. And they have a much, much higher participation rate of anglers in the systems to encourage validation. So, a lot of the MRIP program and the recreational data we have are essentially user reported, especially things like discards and effort.

The systems in Alabama and Mississippi are more census-based with verification that the angler has reported in and reported out and cross-validation to see that their biologist can actually see the catch that the fishermen have brought in.

So, those data sources have really improved the state's ability to manage their own resources at that level because they can respond at the spatial scale a national survey cannot.

Mr. CARL. Thank you, Doctor. I appreciate that, and I agree with you. We have to assure that NOAA incorporates the full results of the Great Red Snapper Count into their next stock assessment of red snapper. It should lead to bigger increases and quotas across the board, which is a win-win for all sectors of the fishery.

I appreciate my colleague Mr. Young's bill requesting NOAA to send a report to Congress on incorporating more data and stock assessment from our states and the NGOs into fisheries management. They would also have to take a look at whether the Federal survey data is really working for us.

Another quick question, Dr. Powers. I am running real short of time here.

Ultimately, I would like to see Alabama be allowed to set its own recreational harvest targets on its own. Based on how the state has done managing the quota so far, do you think Alabama could do this successfully while also protecting against overfishing?

Dr. POWERS. Yes, I do. I believe the states have really demonstrated in the last couple of years their ability to stay within the quota when you go according to the states' landing systems across the Gulf.

The states have also invested in science and scientific surveys to inform their own spatially distinct management units.

And, again, I have given some caveats in my written testimony to when I think that a more regional-based approach is necessary. But essentially if the stock isn't overfished or undergoing overfishing—like red snapper is not doing either of those, it is in good condition now—then I think there should be some more power given to the states to be more responsive to their local stakeholders.

Mr. CARL. Thank you, Doctor.

Thank you, sir.

Mr. HUFFMAN. I thank the gentleman.

I will now recognize myself for 5 minutes.

Obviously, one of the biggest changes that we are proposing in H.R. 4690 are the provisions on climate-ready fisheries. Back in 2006, the last time MSA was reauthorized, climate change was still viewed as something that we would face in the distant future. There were no provisions made for climate adaptation in that law.

So, I was pleased to hear from a number of our witnesses that they agree, and certainly the stakeholders on our listening tour said this to us, that now is the time to build this into our update of MSA.

Let me begin with Ms. Moore.

Why is it so important that we tackle this challenge of climate-ready fisheries?

Ms. MOORE. Thank you for the question.

Fundamentally, climate change is reshaping our ocean ecosystems and our fisheries. And that means that our fishing communities are vulnerable to disruptions. We may see situations where there is less available catch in the long term.

Figuring out how to adapt to that now and plan for that is the best way that we can continue to sustain sustainable fishing, support those communities, and make sure that we are passing down to the next generation the same source of abundant fisheries that we enjoy today.

Mr. HUFFMAN. Thank you.

And, Ms. Peltola, I will go to you.

In the North Pacific, how will having two seats on the North Pacific Council help tribes with the challenges that they face from climate change?

Ms. PELTOLA. Thank you, Mr. Chairman, for the question.

I believe that adding two tribal seats will allow Alaska Native people, who have the longest dependence on these resources, a say in management.

Currently, on the North Pacific Fisheries Management Council the power rests with only people who have an economic tie to the resource. And as I said in my opening testimony, we do not contribute to gross domestic product, we do not contribute to ex-vessel value calculations.

So, despite having supposed Federal protections under ANILCA, despite having supposed written priorities under our state constitution and within the Alaska Department of Fish and Game, there is zero priority placed on subsistence, and it is actually completely ignored because we don't have an economic stake in it, despite the fact that our economy, our actual economy, the way that we feed our families, is reliant on having healthy and abundant wild resources like salmon, halibut, and other things that depend on the biomass getting to our headwaters.

Mr. HUFFMAN. Did you have anything more you wanted to add on the issue of bycatch? We were discussing that earlier, and there was some discussion about whether it is getting dramatically better or whether this is still a big problem. And I think we would be interested in your perspective.

Ms. PELTOLA. Thank you, again, Mr. Chairman.

Just because reducing bycatch for the industry has a cost or may reduce harvest, I don't believe we can use that as an excuse any longer. On the Kuskokwim River, the Yukon River, in Norton Sound, on the Unalakleet River, there was no fishing this summer for Chinook salmon. Zero. Our larder was allocated zero percent for both Chinook salmon and chum because the chum also did not return.

And there is such a disparity, there is such a double standard here when this year alone the industry captured as bycatch 12,000 Chinook salmon and over 500,000 chum salmon.

Mr. HUFFMAN. Thank you for that.

Let's talk a moment about forage fish, small fish that obviously play an important role in the food pyramid and ecosystems, anchovies, sardines, menhaden, great examples, large populations that tend to cycle in abundance and famously collapse under fishing pressure. A famous example in California, of course, is the collapse of the sardine fishery that closed down Cannery Row in Monterey.

Mr. Goldsmith, can you tell us a little more about forage fish and why they need special attention under this legislation?

Dr. GOLDSMITH. Yes. Thank you for the question, Chair Huffman. I would be happy to.

Forage fish, as you have mentioned, are a critical building block of our ecosystem, and they are responsible for supporting a lot of really valuable commercial and recreational fisheries around the country. As any fisherman knows, when you find the bait, you often find the fish, the tie there is really critical.

And I think both your bill and Congresswoman Dingell's bill, H.R. 5770, make some really significant strides here both in terms of reducing annual catch limits to account for the needs of these predators and also being more proactive in our approach to management, so not allowing a fishery to develop before we have been able to acknowledge or ascertain what impacts there might be and put a new management in place, if that is the case that is needed.

Mr. HUFFMAN. Thank you very much.

My time has expired. Let me just see who is next in the batting order.

Congressman Graves, are you with us remotely?

Mr. GRAVES. Yes, sir, Mr. Chairman. Can you hear me?

Mr. HUFFMAN. Yes. You are recognized.

Mr. GRAVES. Oh, great. Fantastic. I am sorry, if you can give me just a sec here. OK.

Hey, thank you. I just want to get my timer started so I can see what is going on.

Thank you all very much. I appreciate you having this hearing.

I want to start out, Dr. Goldsmith, I am curious about your organization. We are one of the top fishing destinations in the United States and I had never heard of your group. And I checked with some of our folks at home who similarly had not. And I thought that was really curious, again, being that the Gulf was the top recreational fishing destination in the country.

I am curious, if you were going to fish for some wahoo in the Gulf, what do you think you would pull?

Dr. GOLDSMITH. I am sorry, you said if I was going to fish for wahoo in the Gulf?

Mr. GRAVES. Yes. What would you pull?

Dr. GOLDSMITH. I would probably be high speed trolling with a 16 ounce or 32 ounce jet head, I would think, maybe an ilander-ballyhoo combination.

Mr. GRAVES. Say it again? With a jetta?

Dr. GOLDSMITH. Jet head.

Mr. GRAVES. A jet head. And what else? What kind of weight did you have on there?

Dr. GOLDSMITH. A 16 ounce or 32 ounce if I am high speed trolling.

Mr. GRAVES. And where do you think you would go?

Dr. GOLDSMITH. I know the Midnight Lump is a very famous destination in the Gulf, but I have not spent an awful lot of time fishing in that area.

Mr. GRAVES. And if you were going to fish for cobia in the Gulf of Mexico right now, where do you think you would go, and what do you think you would fish with for that?

Dr. GOLDSMITH. If I were going fishing for cobia, I would probably be focused in the Virginia, North Carolina region here on the Atlantic Coast.

Mr. GRAVES. And like I said, if you were fishing for cobia in the Gulf, where do you think you would go, and what do you think you would fish with.

Dr. GOLDSMITH. This time of year, I can't say for sure. I know there is a very strong run of cobia in the Florida Panhandle, but probably not this time of year.

Mr. GRAVES. Yes. Probably not this time of year?

Dr. GOLDSMITH. Correct.

Mr. GRAVES. All right.

So, Mr. Chairman, I think our witness just demonstrated that his experience in fishing and perhaps in the Gulf isn't very strong.

Dr. GOLDSMITH. Well, Congressman, I would contend that——

Mr. GRAVES. I would take it a little bit further. I read all these quotes where you all, supposing to be a recreational fishing group, actually speaking against the Modern Fish Act, which is actually bipartisan legislation designed to improve fish science, designed to improve the balance of rec and commercial fishing, and I found that fascinating.

Then I take it a step further and I look on your website. I say, OK, well, how do you even become a member of this group, and how much does it cost? Well, you can just sign up. You don't even have to be a guide. Anybody can do it. I can do it right now. And it is free, which then makes me think, well, wait a minute, where is the money coming from, because it obviously costs a lot of money to have a group like that?

So, could you just tell me how you are funded if you don't charge membership fees, and if I could just sign up not even being a guide? Where does the money come from?

Dr. GOLDSMITH. Congressman, as a resource-first not sector-first group, we are proud to have a lot of partners across sectors and really take a lot of pride in our ability to bring allies across the different sectors who care about our marine fisheries together.

And regarding the Modern Fish Act, I would say that one of the main contentions that our group had with that was that, while we certainly recognize that not all fisheries necessarily should be subject to the exact same management measures, the one uniting fact that has been hugely successful since the last MSA reauthorization was the enactment of annual catch limits. And that was the major concern with some of the options that were put forward in the Modern Fish Act.

We think that because, again, recreational fisheries have such a large impact——

Mr. GRAVES. So, when we actually have better science, for example, as was mentioned a little while ago, the Great Red Snapper Count that found that the red snapper stock in the Gulf of Mexico is actually triple what was projected by NMFS, then you think that is better, for us to use one-third the stock rather than triple, which keeping in mind the entire Gulf, as we talked on the first panel, is actually a system.

So, you can't manage the system if you have inaccurate information on one species then, especially as dominant and predatory as red snapper are.

I am reading a quote that you all gave in talking about Modern Fish that you said, quote, "We helped strip it down to a few studies." I want to remind you, this whole Committee, everybody you are looking at right now, we all worked on this. It was a bipartisan bill. I appreciate you bragging about stripping it down.

The bill, there is nothing in there, nothing in there that is offensive. It is all about getting better data, better science, making sure it is all incorporated in, because states like mine have actually spent more than the Feds trying to make sure that we manage the species in a manner that is sustainable.

In regard to——

Dr. GOLDSMITH. I would affirm that having sustainable management of all sectors is really what is critical here.

Mr. GRAVES. In regard to the organizations that are funding you, that means that you are not really a fishing guide group. You are a facade for organizations that have an agenda. Why don't you just call yourself who you are and not come before the Committee and others and pretend like you are somebody else? I think it is very disingenuous and unfortunate.

Mr. Chairman, I yield back.

Mr. HUFFMAN. The gentleman's time has expired.

Dr. GOLDSMITH. Sir, the hundreds of guides who come to us who are proud to be our members take a lot of pride in the fact that we value having abundant and healthy fish stocks——

Mr. GRAVES. I am sorry, Mr. Chair, whose time is he using right now.

Mr. GOLDSMITH [continuing]. And recognize that when we have healthy resources, we support all sectors.

Mr. GRAVES. I am sorry, Mr. Chairman, I just wondered, whose time is this again?

Mr. HUFFMAN. The gentleman's time has expired.

The Chair now recognizes Mrs. Radewagen for 5 minutes.

Mrs. RADEWAGEN. Talofa. Thank you all for testifying today.

Dr. Aila, you state in your testimony that you have worked for 33 years with the council. Given this, you must be quite familiar with the Magnuson-Stevens Act and how the council process works.

Can you explain in your words what the MSA requires and how the council failed to follow that process? If you had concerns with the process, do you have examples of when you raised these concerns in writing to the council and what the council's response was to those concerns, Dr. Aila?

Mr. AILA. Yes. Thank you so much for the question.

Well, Magnuson has changed over the years. The most current, I think, version of Magnuson includes much more of a requirement for fisheries management plans to consider all of the biological, social, and economic issues.

It wasn't always that way. When it first started, it was more about defining maximum sustainable yield and those kinds of things which really didn't involve ecosystem management.

My record for the 30-plus years at WESPAC is clear. I have testified at numerous council meetings. I would encourage you to take a look at the record.

A good example of small boat fishermen like myself who sat and advised WESPAC on the Pelagic Advisory Panel is we suggested the use of tuna circle hooks long before the council adopted it because the council got sued in terms of the bycatch of tuna, the bycatch of cetaceans, false killer whales, and other things.

If the council had simply taken the advisory panel's recommendation on tuna circle hooks when it was suggested by the advisory panel, I would say that thousands of green sea turtles, leatherback turtles, olive ridley turtles, the small insular population of false killer whales around the main Hawaiian Islands would not have needlessly been killed.

So, that is one example of what I believe was very cooperative work, giving honest, open advice from fishermen who recognize that a circle hook is less likely to be ingested and therefore increase mortality in the bycatch of this fishery, the long-line fishery.

There are many, many more examples, and if you give me specific questions, I will be happy to respond.

Mrs. RADEWAGEN. And what was the council's response to some of those concerns that you might be able to think of right offhand?

Mr. AILA. The council ignored our suggestions until they were sued by Earthjustice, and I believe a Federal judge then required the use of tuna circle hooks as a mitigation measure.

Mrs. RADEWAGEN. Thank you very much.

Mr. Chairman, I yield back the balance of my time.

Mr. HUFFMAN. I thank the gentlelady.

And I want to thank all the witnesses for their valuable testimony and the Members for their questions.

Members of the Committee may have some additional questions for the witnesses, and we will ask you to respond to those in writing.

Under Committee Rule 3(o), Members must submit written questions to witnesses within 3 business days after the hearing, and then the hearing record will be kept open for 10 business days to allow for responses.

If there is no further business before the Committee, and seeing none, we stand adjourned. Thanks, everyone.

[Whereupon, at 5:30 p.m., the Subcommittee was adjourned.]

[ADDITIONAL MATERIALS SUBMITTED FOR THE RECORD]

Submissions for the Record by Rep. Huffman

Alaska Marine Conservation Council

Hon. Jared Huffman
Hon. Ed Case
House Natural Resources Committee
1324 Longworth House Office Building
Washington, DC 20515

Re: Feedback on MSA Discussion Draft

Dear Representative Huffman and Representative Case:

Thank you for the opportunity to provide comments on the MSA reauthorization discussion draft. We are pleased to see a strong bill which offers improvements to the nation's premier marine fisheries law, the Magnuson-Stevens Fishery Conservation and Management Act (MSA). We appreciate the leadership that Representative Huffman, Representative Case and staff have demonstrated to build on the existing MSA and we look forward to continued work together.

Founded in 1994, the Alaska Marine Conservation Council (AMCC) is an Alaska-based non-profit dedicated to protecting the long-term health of Alaska's oceans and sustaining the working waterfronts of our coastal communities. Our members include fishermen, subsistence harvesters, marine scientists, small business owners and families, many of whom rely on healthy fisheries. AMCC advances conservation solutions that address the interdependence between healthy marine ecosystems, strong local economies and coastal traditions. Our community-based approach includes outreach, grassroots advocacy, public policy, research and education. The base of our membership includes hundreds of small boat, community based, conservation minded fishermen that depend on the health of the marine resource to remain in their fishing communities. In many of Alaska's fishing communities, fishing is the economic engine that drives the community.

The Alaska Marine Conservation Council strongly supports existing science and conservation provisions in the current MSA. AMCC supported revisions to the Act in 1996, in particular the provisions that sought to reduce bycatch, consider the effects of management on communities and protect essential habitats. In addition, AMCC supported revisions in 2006 which provided increased guidance in limited access privilege programs, annual catch limits, accountability measures and environmental review. We believe the MSA discussion draft builds upon provisions which contribute to healthy marine resources and healthy communities. We support advancements to promote the long-term health of the nation's fisheries and fishing communities with inclusion of climate-ready fisheries language. We believe that by strengthening the well-being of coastal communities and responsible resource management we can ensure that our oceans and the people that rely on them can thrive for generations to come.

AMCC appreciates the extensive outreach and the deliberative and transparent approach Rep. Huffman and Rep. Case undertook with listening sessions in seven of the eight management regions. We understand there were intentions to visit the eighth management region, the North Pacific, but efforts were thwarted due to the pandemic. We encourage you to hold a hearing in one of Alaska's premier fishing communities to increase your awareness of both the strength and the vulnerabilities of Alaskan fishing communities. It will be particularly important that you invite Native Alaskans, fishery dependent rural community residents as well as small boat fishermen to participate in your Alaska hearing. Often the interests of large industrial fisheries and processors are strongly represented in the Congressional hearing process and overshadow the voice of other user groups.

Our comments will focus on proposed amendments to MSA, including climate ready fisheries, supporting fishing communities, strengthening the public process, improving fisheries science and data, supporting Essential Fish Habitat and strengthening measures to reduce bycatch.

Title I: Climate-Ready Fisheries

Alaskans are living on the front lines of climate change and fishery management systems must incorporate climate considerations throughout the management process. Climate change is having an impact on fisheries and managers must have the

resources and tools to be responsive to the changes. In addition to providing the tools to support resilient fish stocks, factoring climate change in fisheries management will provide stability to fishing communities.

Sec. 101 does a good job of amending language throughout the findings, purpose and policy to strengthen methods to produce climate-ready management. To further link the symbiotic relationship between resilient fishing communities and environmental changes associated with climate change, AMCC supports additional **bolded** language as follows:

1. On page 6, paragraph (14), at the end, after "subsistence fisheries", add "**as well as fishery dependent community resilience**".
2. On page 6, paragraph (15) add the words "**in particular fishery dependent communities**" at the end of the paragraph.
3. On page 7, under (B), line 14, add the words "**and fishery dependent communities**" after the word "States".
4. On page 7, under (C), line 19, add "**in particular fishery dependent communities**" after coastal communities.
5. On page 8, add a new paragraph (10) "**to support fishery dependent communities and to encourage the next generation of American fishermen**."

With the threat that climate change poses to our fisheries management systems and resilient fishing communities, Secs. 102, 103, 104 and 106 provide solid language to promote climate resilience. AMCC supports the amended language along with the resources to meet the charge. It will be important to identify funding mechanisms and budgetary support to the regional fisheries management councils to develop climate ready fisheries management.

Title II: Supporting Fishing Communities

AMCC supports building upon the existing MSA to further advance legislative commitment to support fishing communities whose livelihoods, and often very existence, depend on healthy oceans and fisheries. Ensuring equitable access to resources is key to fishing communities' survival.

Sec. 202 captures an integral part of Alaskan life with the inclusion of a definition of subsistence and the acknowledgment of subsistence fisheries in the context of federal fisheries management. AMCC supports this addition and the inclusive approach to consider the importance of subsistence fishing.

Sec. 203 and the establishment of a Working Waterfronts Grant Program identifies the need to preserve and expand access to coastal waters and provides a path to identify and prioritize critical needs for working waterfronts. AMCC supports the commitment to secure and enhance valuable waterfront access for fishing businesses and the infrastructure needs to maintain stability for the industry.

Sec. 204 and the recommendation to reestablish the National Seafood Council to conduct education, research, promotion, and marketing to increase seafood consumption and improve consumer awareness has merit. Domestic marketing of sustainably harvested US seafoods is a benefit to both the fishing industry and the consumer. That said, AMCC believes it is important to support small scale fisheries and fishermen in tandem with larger scale fisheries in all marketing initiatives. Throughout Alaska's fishing communities there are thousands of small boat fishermen who engage in small scale fisheries. Marketing efforts with intentional investments to increase consumption of the diverse array of species these community-based fishermen harvest would result in widespread benefits to the fishing community. In addition, a Seafood Council should also be tasked with exploring means to increase domestic processing. The practice of secondary processing for US harvested fish which are then shipped back for US consumption is disadvantageous to the quality, health benefits and employment benefits to the Nation for these species.

Sec. 205 AMCC appreciates the amended language which strengthens community participation in limited access privilege programs (LAPP). In our experience, the current community provisions have not worked as intended, to promote the sustained participation of fishing communities. The addition of language in the LAPP provisions "*including the participation of fishing communities in the fishery*" helps focus this need. The components outlined in a community sustainability plan clearly capture integral considerations and descriptive design to achieve the critical objective to sustain our Nations fishing communities.

As an organization with deep ties to the commercial fishing industry, AMCC is particularly pleased to see focus on providing for the next generation, encouraging

active participation and addressing economic barriers to access the fisheries. A sustainability plan which supports the 'boots on deck' fishermen and strives to keep the benefits of a LAPP fishery within the fishing community and active participants can be developed in a way that looks toward the future.

In addition to the current list of considerations in the draft, AMCC recommends adding **bolded** language below which fully explores the value of anchoring quota to a fishing community as a means to provide for sustained participation and provides a process for fishing communities to participate in the limited access privilege program in perpetuity.

On page 88, after (VII), line 18, add (VIII) **A description of whether or not awarding quota shares as part of the LAPP program to fishing communities would help to minimize adverse economic impacts on such communities and provide for the sustained participation of the fishing community in the LAPP program** and provide a process for fishing communities to participate in the limited access privilege program in perpetuity.

Title III: Strengthening Public Process and Transparency

AMCC appreciates the amendments in sec 304 which recognize members of the conservation community, scientists, non-consumptive users, Indigenous and tribal communities and subsistence users as qualifications to be considered to serve on a regional council. We view this amendment as an inclusive approach in the stakeholder process. In our experience, when participants in the process have a representative on a Council that they can identify with, engagement improves. The fisheries management process is complex and challenging to navigate. Diverse geographic and qualifications increase access to representatives familiar with the process and provide critical links to foster stakeholder engagement.

In terms of diversification on regional councils, AMCC is concerned that the amendment to appoint at least two individuals who do not have a financial interest in matters before the Council may impact the ability for community-based fishermen to serve on a council. Most fishermen who are selected to serve on the council are invested in federal fisheries. It will be helpful to get clarification on this recommendation. For example, if a council member is employed by a fishing organization or processor, does the gainful employment constitute a financial interest the same way a fisherman who is invested in the fisheries has a financial interest? AMCC believes it is important to maintain the voice of active, community-based fishermen on councils and is concerned that this action may inadvertently reduce diversification.

Title IV: Modernizing Fisheries Science and Data

AMCC supports the modernization of fisheries science and data and intent to better utilize and integrate new technology into fisheries management. Accuracy, timeliness and reliability of fisheries data is a cornerstone of sustainable fisheries management. A process for implementation of electronic monitoring and reporting which corresponds with human observers will further enhance robust fisheries data. Clearly the recognition of electronic monitoring and reporting as a part of an information collection program will facilitate the modernization initiative.

It will be critical to include the fishermen who will be using electronic monitoring in the discussion moving forward. Each region and fishery are unique and a one size fits all approach will likely curtail innovation, practicability and cost-effective development. From our experience, fishermen are adaptable, innovative and want things to work so they can keep fishing. There is a saying from active fishermen when trying ideas developed on land that don't quite work as anticipated: "another dockside idea put to test". Industry perspective will be invaluable in terms of onboard operational compatibility with electronic monitoring and will strengthen the transition to increased use of new technologies in fisheries management.

AMCC supports the language in Sec. 408 which allows use of funds for climate research and allows use from regions where funds generated. As noted above, the recommendations in Title I to develop climate ready fisheries will need funding and it makes sense to allow funds from this source to be used for climate science research.

Title V: Sustaining Fisheries Through Healthy Ecosystems and Improved Management

AMCC supports the in-depth examination of how current fisheries management practices are maintaining ecosystem roles and functions, protecting important habitats, and minimizing bycatch

Sec. 501 provides improved language and direction for supporting healthy fish habitat and will augment existing efforts to protect important habitats. A process to improve the consultation with federal agencies to avoid, minimize and mitigate adverse impacts on essential fish habitat emphasizes the value of habitat to sustainable fisheries and will benefit the long-term health of our marine environment. The effects of non-fishing activity on essential fish habitat and actions to avoid, minimize and mitigate adverse impacts is a proactive approach to address the threats of our ever-changing ocean use. The roles of the regional fisheries management council are well defined with direction to develop and implement a plan to protect essential fish habitat with measurable targets and goals for each Council region along with a routine review process.

Sec. 503 AMCC both appreciates and supports the amended language focused on reducing fishery bycatch. Bycatch impacts the ecological well-being of the marine environment, other user groups dependent on the bycaught species and is wasteful. The removal of the language 'to the extent practicable' provides a strengthened directive to reduce bycatch. We support the removal of this qualifying language throughout the discussion draft and in National Standard 9.

In our experiences in the North Pacific, 'to the extent practicable' is quite subject to interpretation and often used to counter actions to reduce bycatch. When an action to minimize bycatch is being discussed before a Council, a fleet responsible for significant amounts of bycatch can ascertain they have done all that is practicable for their fleet. As a result, efforts to minimize bycatch for both the conservation benefits to the bycaught species and the user groups of the species utilized for bycatch are marginalized by the interpretive language on minimizing bycatch to the extent practicable. There are fisheries management situations in the North Pacific which allow for status quo bycatch usage of species like halibut, crab and salmon when the directed fishery is subject to reduced TAC and closures to provide conservation for the resource under declining abundance. This represents both an equity and a conservation concern for fishing communities and Native Alaskans with a long history of dependence on the bycaught species.

AMCC believes that balancing the National Standards provides a balanced approach to address bycatch while striving for optimal yield and meeting the 10 National Standards. The qualifying language 'to the extent practicable' is unnecessary and misused.

Sec. 505 provides solid guidance for the role of the SSC to provide recommendations on resilience to fish stocks by providing input on all sources of mortality and promoting resilience to climate change. In particular, the ongoing scientific advice provided by the SSC to assess the health, sources of mortality, bycatch, habitat status, the sustainability of fishing practices and anticipated future impacts of climate change are critical to sustainable fisheries management.

Thank you for the opportunity to comment on the discussion draft and we look forward to future iterations. AMCC is appreciative of the ideas presented which will support the long-term health of our oceans, our fishery dependent coastal communities and numerous others, including ocean inhabitants that depend on a healthy marine environment.

Sincerely,

THERESA PETERSON,
Fisheries Policy Director

At-sea Processors Association

November 24, 2021

Hon. Jared Huffman, Chairman
Hon. Don Young, Acting Ranking Member
Subcommittee on Water, Oceans, and Wildlife
Committee on Natural Resources
1324 Longworth House Office Building,
Washington, DC 20515

Dear Chairman Huffman and Acting Ranking Member Young:

Thank you for convening the Subcommittee's legislative hearing on November 16 to consider H.R. 59, H.R. 4690 and H.R. 5770. The Magnuson-Stevens Fishery Conservation and Management Act (MSA) has made the U.S. fishery management system the envy of the world. We welcome congressional review of its successes and the potential consequences of legislative changes.

During the hearing, Chairman Huffman made certain comments about trawl vessels operating in the Alaska pollock fishery. He also saw fit to enter into the record a "memorandum" authored by a group called "Accountable US". Both the comments made by the Chairman and the "memorandum" he entered into the record served to spread misinformation about the Alaska pollock fishery. I understand that Mr. Shannon Carroll from Trident Seafoods will be providing a written response to those comments and that "memorandum". I will not repeat all the points being made by Mr. Carroll, but I did want to provide some addition information that I hope will be helpful to the Subcommittee. I respectfully request that my response be made part of the hearing record.

By way of background, for more than 40 years I have lived in coastal Alaska, in communities that depend upon fisheries for their survival. My whole career has been spent advocating for sustainable fisheries—to help ensure that those communities have a future. I operated an air taxi from the Tom Madsen Airport in Unalaska with my late husband for nineteen years, and then worked for the shoreside processors that are central to the economy of coastal communities. I am now proud to work as Executive Director of the At-sea Processors Association, representing six companies that operate catcher processor vessels in the Bering Sea Alaska pollock fishery—the largest fishery in the United States and the largest seafood fishery in the world.

The Bering Sea Alaska pollock fishery has set the bar for fisheries management and sustainability for decades. It is certified sustainable by two independent certification bodies with some of the highest sustainability ratings of any fishery on Earth. Here are some facts that I believe Members of the Subcommittee should know about this fleet:

- **We are accountable.** All of the fishery's catcher processor vessels pay to carry two Federal observers who measure and report everything that comes aboard on every trip. Scales and multiple cameras are also used to ensure that everything caught in our nets is counted and documented. There is no other fishing fleet, anywhere, that is more closely monitored and more accountable for their operations.
- **We are transparent.** Every April since 2000, we have reported to the public through the North Pacific Fishery Management Council the precise amount and type of species caught by each vessel. All of those reports are available on the NPFMC website (see Pollock Conservation Cooperative and High Sea Catchers' Cooperative). The catch data is also available to the public during the season on the National Marine Fisheries Service website.
- **We follow the science.** The North Pacific has invested heavily in climate science and sophisticated models to address the changing climate. This includes local and traditional knowledge. The process to include LKTK is being improved, so that before any actions are taken we have all the available science. This region is known for having adopted precautionary principles early in the history of the Council, and we continue to improve on the ecosystem-based fishery management that has long been a hallmark of the region.
- **We work hard to minimize incidental catch.** All fisheries encounter non-target species. Our fleet goes to great lengths to target pollock and avoid

other marine life. As a result of these efforts, more than 98 percent of what our vessels catch is pollock.

- **We have dramatically reduced incidental catch of Chinook salmon.** Since 2010, our fleet has operated under a Chinook salmon hard cap, which would shut the fishery down if exceeded. When the Western Alaska stocks are low our cap is lowered, which has been the case for the last several years. Our fleet has worked to not only stay under the cap, but also to further minimize incidental catch of salmon by investing in extensive gear and technological innovations, including underwater cameras, salmon lights, and salmon excluders. We also pay to access and share detailed historical and current spatially explicit catch data across the entire fleet, and we analyze these data in real time to help inform time and area fishing decisions to avoid salmon. As a result, incidental catch of Chinook salmon by our vessels has declined by 89 percent since its peak in 2007.
- **We support salmon science.** Salmon encountered by our vessels are counted and sampled so that ecosystem impacts can be understood. Every tenth Chinook salmon encountered is sampled to determine its genetic makeup. Every thirtieth chum salmon is also sampled. Those samples are processed by the National Marine Fisheries Service, and the stocks of origin of those salmon are publicly reported. The science shows us that a majority of chum salmon encountered in the Bering Sea pollock fishery come from hatcheries outside the United States.
- **We donate salmon to help those in need.** Regulations require all salmon to be retained and counted by the Federal observers. Our companies donate eligible salmon to regional foodbanks through our non-profit partners Sea Share, to serve those in need.
- **Incidental catch by trawl fisheries is not the cause of declining salmon runs in Western Alaska.** Declining salmon runs in Western Alaska are devastating to see, and the impact on Western Alaska communities is heartbreaking. We should do everything possible to understand the causes of these declines and address them through science-based policy responses. Genetic sampling and adult equivalent (AEQ) modeling of incidental catch makes clear that trawl fisheries are not the cause. In the case of Chinook salmon, the best scientific information indicates that the current impacts of incidental catch on total run estimates for Western Alaska rivers has been less than three percent in every year since 2009. Incidental catch impacts to Upper Yukon Chinook runs average close to 1 percent.
- **Our fleet is inextricably linked to Western Alaska communities.** The companies operating these vessels partner or are owned in whole or in part by the Western Alaska Community Development Quota (CDQ) Groups. In fact, as envisioned by the late Senator Stevens, who helped establish the CDQ program, the ownership share of CDQ groups in this fishery continues to increase. Revenue from the Bering Sea pollock fishery provides critical resources to Western Alaska communities in need. Folks who characterize our fleet as "outsiders" are incorrect, and are pitting Alaskan against Alaskan.
- **We support habitat protections to ensure a healthy Bering Sea ecosystem for future generations.** Every five years, as required by the Magnuson-Stevens Act, the North Pacific Council looks at impacts to habitat by fisheries. If the science, including a fishing effects model, indicate that impacts are more than temporary and more than minimal, mitigation measures are developed.
- **We are providing low-cost, low-carbon protein that helps feed the world.** Alaska pollock is a low-cost, high-nutrition seafood. It feeds millions of Americans in need, through affordable retail and food-service offerings, and through the National School Lunch and food bank programs. It also serves consumers around the world, providing one of the most climate-friendly options of any widely-available protein. Its CO-2eq per kg of protein is 3.77kg—compared to 12.5 for chicken, 19.65 for pork, 20.83 for plant-based meat, and 115.75 for beef. All food production has an environmental footprint. We are proud that ours is one of the most modest of any protein source on Earth.

Our industry welcomes debate about responsible management of our natural resources. It is critical that such a debate be grounded in science and proceed based on facts. Those who are spreading false information about trawl fisheries are doing nothing to help our communities or our environment. Rather, I urge those who care about these issues to join us in advancing solutions that are based in science and

fact. We strongly support efforts to further study and address declining salmon runs in Western Alaska; we welcome science-based efforts to minimize incidental catch in all North Pacific fisheries; and we are committed to improving the resiliency of the precious Bering Sea ecosystem through management that responds to and incorporates climate change.

I look forward to working with Members of the Subcommittee to advance our shared priorities in these critical areas.

Yours sincerely,

STEPHANIE MADSEN,
Executive Director

Statement for the Record

Ms. Jennifer Dianto Kemmerly
Director of Global Fisheries and Aquaculture
Monterey Bay Aquarium

Hearing on "The State of Fisheries"
Subcommittee on Water, Oceans, and Wildlife

May 1, 2019

Chairman Huffman, Ranking Member McClintock, and Members of the Subcommittee, thank you for the opportunity to speak today. I am honored to provide testimony on the current state of fisheries on behalf of the Monterey Bay Aquarium.

The growing conservation challenges facing our ocean are well documented, and the United States must continue to rise to these challenges through strong, science-based management to protect our blue economy, coastal communities, and way of life. The United States is not alone in recognizing the urgency of the situation. When the global community adopted the United Nations Sustainable Development Goals, they specifically included Goal 14, which focuses on the conservation and sustainable use of the oceans, seas, and marine resources and states that, "how we manage this vital resource is essential for humanity as a whole." The world has spoken: our survival depends on healthy seas.

Congress has been instrumental in positioning the United States as a global ocean conservation leader, especially on fisheries issues as evidenced by the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and your support for crucial research and management by the National Oceanic and Atmospheric Administration (NOAA). The decisions made by this Subcommittee impact the lives and prosperity of millions of Americans, and we look to your continued leadership to ensure our ocean can provide the same benefits for future generations. There is no time to waste.

The Monterey Bay Aquarium

The mission of the Monterey Bay Aquarium is to inspire conservation of the ocean. Today, we welcome more than two million visitors per year and have three million social media followers. More than two million schoolchildren and teachers have come through our doors for free, and our science programs for students and teachers reach thousands more. Our exhibits educate and motivate visitors to act on behalf of the ocean.

The Aquarium's conservation priorities aim to tackle critical issues affecting ocean health, including global fisheries and aquaculture sustainability, protection of wildlife and ecosystems, climate change, and plastic pollution. Science underpins our work in addressing these challenges, and we seek a collaborative approach that encourages partnerships with the private sector, governments, academia and other key stakeholders. Our staff experts conduct scientific research on ocean wildlife and ecosystems, influence policy from the local to global levels, and engage industry and markets through our Seafood Watch program. We also partner with the Monterey Bay Aquarium Research Institute (MBARI) to develop cutting-edge technology and information in support of our conservation goals. We raise awareness of ocean issues, inspire individual behavior change, and educate the next generation of ocean leaders so that they take, and engage others in, conservation action.

Our commitment to multi-stakeholder engagement stems from the very foundation of Monterey Bay Aquarium. The Aquarium stands in the space of a former cannery on Monterey's historic Cannery Row, a site that was the center of the sardine industry until its collapse in the 1950s. It took decades of work by government, scientists, fishermen, and conservationists, but today we are perched on the shores of a healthy and vibrant ecosystem that supports a booming tourism industry, and where fishermen can be found working the waters year-round for a variety of commercially valuable seafood species. We do not take this for granted—it took strong, science-based management to get us here—and these same forces are working to advance similar success stories around the globe.

The Aquarium's Seafood Watch Program

The Aquarium's Seafood Watch program was developed in 1999 to create a market demand for seafood from sustainable sources. It evolved from an Aquarium exhibit about the impacts of fishing on the ocean, which also highlighted solutions ranging from gear modifications to strong science-based management. Our visitors asked us what they could to help the situation, and, in response, we began to lay the foundation for what has become a globally-respected set of science-based recommendations for use by consumers and businesses to choose environmentally sustainable seafood in the marketplace. We base these recommendations on transparent and peer-reviewed environmental sustainability standards for fisheries and aquaculture operations. Today, Seafood Watch is one of the most respected sources of seafood sustainability information and provides guidance for U.S. consumers and for businesses in the United States and around the world.

The Seafood Watch Sustainability Standard for Fisheries

As stated above, Seafood Watch uses a science-based standard to assess the environmental sustainability of fisheries and aquaculture operations. For wild-caught commercial fisheries, this standard is based on the U.N. Food and Agriculture Organization's (FAO) Code of Conduct for Responsible Fisheries and closely aligns with the National Standards of the MSA. To conduct our assessments, we rely on publicly available science, including data and stock assessments for U.S. fisheries from NOAA. The Seafood Watch standard includes four criteria that we use to assess the environmental sustainability of fisheries including: stock health, impacts of the fishery on other species, the effectiveness of management, and impacts of the fishery on habitat and the ecosystem. The Seafood Watch standards, assessments, and resulting recommendations are publicly available at seafoodwatch.org.

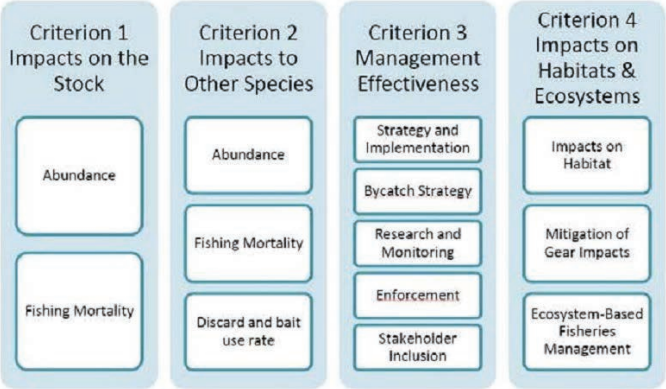

Figure 1—Criteria of the Seafood Watch sustainable fisheries standard.

Fisheries assessed by Seafood Watch that perform well in all four criteria are green-rated, which is our highest sustainability rating. Yellow-rated fisheries perform well in most, but not all, criteria, or there may be a lack of data to fully assess the fishery. Those fisheries that perform poorly against some criteria are red-rated indicating that there is significant room for improvement. Seafood Watch recommends consumers and businesses preferentially source green-rated seafood, followed by yellow-rated fisheries or those fisheries certified to a standard found to

be equivalent to that of Seafood Watch.[1] Our assessments are also intended to be used by stakeholders, such as seafood producers and governments, to identify and address sustainability shortfalls in lower-rated fisheries. Our goal is to help move red-rated fisheries to a yellow rating and, ultimately, to a green rating—an evolution that we believe can help ensure a viable fishery in the future.

Increasing Demand for Environmentally Sustainable Seafood

Awareness of environmentally sustainable seafood has increased significantly over the last twenty years, reflecting a global trend toward sustainability. In a recent poll, 70 percent of consumers in North America indicated they want to hear more from companies about the sustainability of their products.[2] A 2017 survey of consumers and restaurant purveyors in the United States found that one out of six U.S. seafood shoppers consult environmental sustainability purchasing guidelines, such as those produced by Seafood Watch.[3,4] Significantly, over 55 percent of U.S. consumers state that they would pay more for sustainable seafood.[5]

At the same time, an increasing number of companies that sell seafood have made public-facing commitments to source environmentally sustainable seafood. For example, over 90 percent of U.S. retailers and over 75 percent of retailers in the European Union market now have sustainable seafood commitments.[6] U.S. retailers and other companies have reported that their commitments are driven by concerns over long-term seafood supply, company brand identity, and consumer demand.[7]

At Seafood Watch, we work with some of the largest U.S. retailers, restaurant chains, distributors, and foodservice companies—including Whole Foods Market, Aramark, and Red Lobster—to help them develop and meet their environmentally sustainable seafood commitments. Over the past several years, these companies have shifted all or most of their purchasing to Seafood Watch recommended seafood. Our network also extends to nearly 300 other businesses and institutions located across the country that use our information to improve the sustainability of their seafood purchasing.

Importantly, these corporate-level actions are now driving on-the-water improvements around the world as the companies engage their supply chain to find environmentally responsible sources of seafood or to support improvements toward that end. Today, the Aquarium is working with some of the largest producers of seafood to advise their efforts to improve fishing practices and management in response to U.S. market demand.

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[1] Seafood Watch recognizes fisheries certified to standards with thresholds equivalent to our yellow rating or better. For more information visit www.seafoodwatch.org/seafood-recommendations/eco-certification.

[2] Marine Stewardship Council and Globescan (2018). Understanding & Activating Seafood Consumers—North America. https://www.msc.org/docs/default-source/default-document-library/for-business/msc-globescan-understanding-consumers-webinar-deck-north-america.pdf?sfvrsn=5983a2de_6.

[3] Dataessentials (2017). MenuTrends Keynote Report: Seafood.

[4] Through outreach and online tools, the Aquarium has distributed over 63 million pocket guides and reaches over 10 million consumers a year.

[5] California Environmental Associates (2017) Seafood Metrics Report.

[6] California Environmental Associates (2017). Seafood Metrics Report.

[7] Monterey Bay Aquarium and GlobeScan (Publication in preparation). Uncovering Business Motivations for Sustainable Seafood Commitments in the United States.

Status of Global and U.S. Fisheries

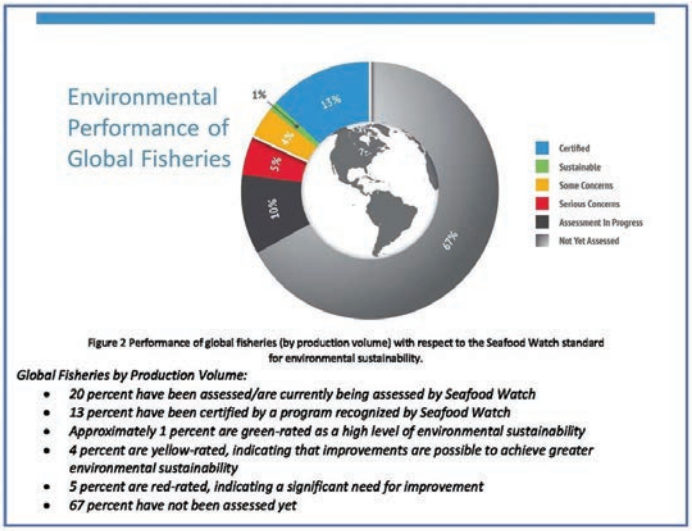

Figure 2 Performance of global fisheries (by production volume) with respect to the Seafood Watch standard for environmental sustainability.

Global Fisheries by Production Volume:

- *20 percent have been assessed/are currently being assessed by Seafood Watch*
- *13 percent have been certified by a program recognized by Seafood Watch*
- *Approximately 1 percent are green-rated as a high level of environmental sustainability*
- *4 percent are yellow-rated, indicating that improvements are possible to achieve greater environmental sustainability*
- *5 percent are red-rated, indicating a significant need for improvement*
- *67 percent have not been assessed yet*

Globally, 45 percent of seafood production comes from wild-caught sources. According to the FAO, the percentage of global wild-caught fish stocks fished at biologically unsustainable levels increased from 10 percent in 1974 to over 33 percent by 2015.[8] Overfishing is on the rise globally. Seafood Watch is working to assess the majority of global fisheries supplying the U.S. in response to market expectations for sustainability. Currently, we recommend as procurement options the 18 percent of global fisheries that are yellow-rated, green-rated, or certified. The environmental sustainability status of the remaining global supply is red-rated (5 percent) or unknown and likely has significant sustainability concerns.

U.S. fisheries, overall, have achieved a much higher level of environmental sustainability than global fisheries. In recent years, many U.S. fish stocks have recovered, and the number of overfished stocks has fallen, unlike the situation faced by global stocks. We have Seafood Watch assessments or other certification of environmental sustainability status for 95 percent of U.S. fisheries by production and can recommend 91 percent as green-rated, yellow-rated, or certified.

[8] Food and Agriculture Organization of the United Nations (2018). The State of World Fisheries and Aquaculture 2018. License: CC BY-NC-SA 3.0 IGO. http://www.fao.org/3/19540EN/i9540en.pdf.

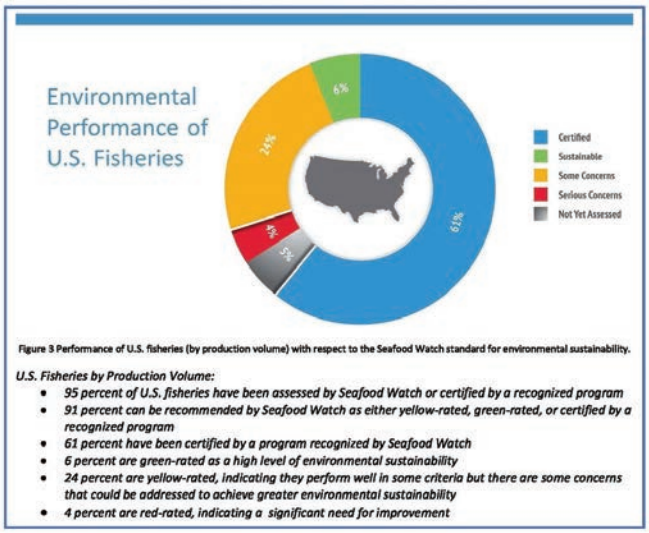

Figure 3 Performance of U.S. fisheries (by production volume) with respect to the Seafood Watch standard for environmental sustainability.

U.S. Fisheries by Production Volume:

- *95 percent of U.S. fisheries have been assessed by Seafood Watch or certified by a recognized program*
- *91 percent can be recommended by Seafood Watch as either yellow-rated, green-rated, or certified by a recognized program*
- *61 percent have been certified by a program recognized by Seafood Watch*
- *6 percent are green-rated as a high level of environmental sustainability*
- *24 percent are yellow-rated, indicating they perform well in some criteria but there are some concerns that could be addressed to achieve greater environmental sustainability*
- *4 percent are red-rated, indicating a significant need for improvement*

Strong Fishery Management Underpins the Environmental Sustainability of U.S. Fisheries

The MSA has established the U.S. as the global leader in science-based, sustainable fisheries management. Countries around the world, as well as the United Nations, are now using the U.S. approach as a model for improving fisheries management. The core conservation provisions and accountability measures of the MSA ensure the health of U.S. fishery resources that support our economy, jobs and coastal communities no matter where you live in the U.S.[9] In 2016, the U.S. commercial, recreational fishing, and seafood industries generated $212 billion in sales impacts, contributed $100 billion to gross domestic product, and supported 1.7 million full and part-time jobs.[10]

Both Seafood Watch assessments and NOAA data suggest that the MSA has been very successful in rebuilding U.S. stocks, decreasing the risk of overfishing, and elevating the long-term sustainability of fisheries around the country. The science-based management framework and accountability requirements within the MSA are addressing the fundamental tenets of sustainability and have drastically reduced overfishing and helped recover 45 U.S. fish stocks.[11] Analysis of Seafood Watch assessments reveals that the scores for stock health and management effectiveness are particularly strong for many U.S. fisheries. This sets the United States apart from most foreign fisheries.

Consumer and business demand for sustainable seafood continue to shape market expectations. The strong environmental sustainability of U.S. fisheries creates potential to differentiate from foreign products, offering a competitive advantage in the global marketplace. Major companies are implementing specific, time bound commitments to sustainable seafood, and U.S. fisheries can capitalize on this economic opportunity. Several elements are needed to continue the U.S. competitive advantage, enable the long-term health of the resource, and protect fishing and coastal communities. We offer the following recommendations:

- Maintain the core conservation provisions of the MSA, including science-based management, ending overfishing, rebuilding depleted stocks, and ensuring strong accountability. These provisions are critical to maintain the

[9] National Marine Fisheries Service (2018}. Fisheries of the United States, 2017. U.S. Department of Commerce, NOAA Current Fishery Statistics No. 2017.

[10] National Marine Fisheries Service (2018). Fisheries Economics of the United States, 2016. U.S. Department of Commerce, NOAA Technical Memorandum NMFS-F/SP0-187, pg 6.

[11] NOAA Fisheries (2018). Fishery Stock Status Updates, December 2018. https://www.fisheries.noaa.gov/national/population-assessments/fishery-stock-status-updates#2018-quarterly-updates.

health of our fisheries at sustainable levels and provide an opportunity to differentiate U.S. fisheries in the global marketplace.

- Support investments in research, technology, and innovation, including cooperative research, to guide management decisions through the Regional Fishery Management Council process.
- Work with fishing communities to build critical infrastructure, supply chains and domestic marketing opportunities. In Monterey, we're working with the Monterey Bay Fisheries Trust to keep fishing permits in the community, rebuild a local, sustainable fishery and support a diverse fleet of fishing vessels. This type of stakeholder-driven collaboration can increase profitability, and market opportunities that support U.S. fishing communities and consumer demand for sustainable seafood.
- Advance new research, tools and ecosystem-based approaches to ensure continued sustainability into the future.
  - Analysis of Seafood Watch assessments of U.S. fisheries indicates that the lowest scores within the four criteria are consistently related to bycatch concerns. If bycatch were reduced or mitigated, 20 percent of yellow ratings could qualify for a green rating. New congressional support for NOAA's bycatch reporting[12] and reduction programs may also accelerate improvements.
  - Our analysis also indicates some challenges with managing habitat and other ecosystem impacts in U.S. fisheries. Several Regional Fishery Management Councils are already working toward more operational ecosystem-based management plans that incorporate habitat, forage fish and climate impacts, and this work should be prioritized.
  - Climate change impacts on fisheries are increasingly observed in some regions of the United States, and collaboration between NOAA, the Councils, academics, and stakeholders will support mitigation strategies[13] that will prepare fishermen and coastal communities for the future.

Global Challenges and Leveling the Playing Field for U.S. fisheries

U.S. fisheries are part of a complex global seafood supply chain and must compete with seafood produced around the world. Seafood is the most globally traded commodity, and fisheries from countries with strong management—like the United States—must compete in the same marketplace with product from weak management. Currently, there is not strong evidence that seafood from well-managed fisheries experience a market premium. However, thanks to the number of business commitments to sustainable seafood, the U.S. market is actively looking to source from environmentally sustainable fisheries, including our domestic product.

The United States imports over 90 percent of our seafood from abroad, which poses challenges of sourcing from countries with weak management and from sources that experience illegal, unreported, and unregulated (IUU) fishing, including human rights abuses.

Each year, IUU fishing costs law-abiding U.S. and international fishing fleets and governments between $10 and $23.5 billion.[14] It poses a serious threat to the effectiveness of fishery management efforts, and directly impacts the overall health of the ocean. Recent investigations also revealed clear links between IUU fishing and human rights abuses, including seafood supply networks that ultimately ended in U.S. markets.[15] IUU and these human rights issues in the seafood supply chain impact U.S. fishermen, businesses, and consumers and must be exposed and addressed.[16]

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[12] Benaka, L.R., D. Bullock, A.L. Hoover, and N.A. Olsen (editors) (2019). U.S. National Bycatch Report First Edition Update 3. U.S. Department of Commerce, NOAA Technical Memorandum NMFS-F/SP0-190.

[13] NOAA has recently published guidance for fisheries managers grappling with the challenges posed by climate change, and financial resources will be needed to provide the data and the capacity to put this guidance into practice.

[14] Agnew, D.J., J. Pearce, G. Pramod, T. Peatman, R. Watson, J.R. Beddington, T.J. Pitcher (2009). Estimating the worldwide extent of illegal fishing. *PLOS ONE 4*, e4570. https://doi.org/10.1371/journal.pone.0004570.

[15] According to the ILO, approximately 1.8 million people worldwide were in forced labor in fishing and agriculture industries. (International Labour Organization (2017). Global Estimates of Modern Slavery: Forced Labour and Forced Marriage. https://www.ilo.org/global/publications/books/WCMS_575479/lang-en/index.htm).

[16] To help fill the need for publicly available resources to identify the risks in supply chains, Seafood Watch and the Sustainable Fisheries Partnership developed the Seafood Slavery Risk

The United States has been a leader in the fight against IUU fishing, including leading the development and ratification of the U.N. Port State Measures Agreement in 2016 to enhance enforcement and implementation of the U.S. Seafood Import Monitoring Program (SIMP) in 2018 to improve seafood traceability and transparency within the supply chain. These government programs to improve international enforcement and improve transparency within markets are being complemented by efforts of the private sector and NGOs, such as the Global Dialogue on Seafood Traceability and the Seafood Alliance for Legality and Traceability.

Seafood traceability is particularly important to leverage U.S. market influence globally to level the playing field. Consumers and businesses need information about the seafood they buy, including where and how the fish was caught, to be able to incentivize change. SIMP officially started in January 2018 and included 11 priority species "at risk" of IUU fishing, and last year Congress added shrimp and abalone to the program. This important program collects key harvest and landing data from importers and requires that importers maintain chain of custody for the species covered. It gives NOAA authority to conduct audits and works with states and other federal agencies to inspect and ensure compliance.

Increased congressional funding and strong U.S. leadership in the international arena can help to level the playing field and support U.S. fishermen, businesses, and consumers. We offer several recommendations:

- Fully execute SIMP and expand the program to cover all species. SIMP is a crucial first step to increase transparency and traceability of imported seafood products and address IUU fishing globally. However, it must be fully implemented with all necessary resources and expanded to cover all seafood products. These actions will eliminate current loopholes and incentivize international action toward sustainable, legal fisheries globally.
- Advocate for precautionary, science-based management and strong compliance at the Regional Fisheries Management Organizations (RFMOs). All countries must be held accountable to their international obligations to achieve sustainable management of highly migratory species (e.g., tunas, billfish, sharks), and bring others up to standards consistent with the MSA.
- Utilize existing authorities and programs to advance on-the-water enforcement capacity globally, such as NOAA international enforcement trainings, collaboration with technology providers (i.e. Global Fishing Watch), and authority provided by the High Seas Driftnet Moratorium Protection Act in the MSA.
- Increase government oversight by NOAA, the State Department, and other agencies to identify challenges and opportunities to ensure our markets are supporting safe labor and social responsibility.

At a time when our oceans and global fisheries are under threat, we are seeing strong new private sector leadership, and the MSA has positioned the United States as a global model of science-based, environmentally sustainable fisheries management. Working together, the public and private sectors can continue to strengthen U.S. fisheries and leverage our purchasing power to bring global fisheries up to our standards. The Aquarium stands ready to work with Congress and this Subcommittee to support solutions that ensure the long-term health of our ocean's fisheries—in U.S. waters and beyond.

Thank you for your consideration of this testimony.

Tool. The tool provides information on the likelihood that forced labor, human trafficking, or hazardous child labor are occurring on fishing boats in a specific fishery.

Andrew Braker
Fort Collins, CO

November 14, 2021

House Natural Resources Committee
1324 Longworth House Office Building
Washington, DC 20515

Re: Letter to Committee H.R. 4690

My name is Andrew Braker. I am a 26 year old outdoor recreation enthusiast, environmental filmmaker, and sustainability advocate. Growing up near the Chesapeake Bay I had the privilege to experience spending time in one of the most coveted marine ecosystems in the world. Being born in 1994, I also had the opportunity to experience the boom and bust of the striped bass fishery over the course of my lifetime.

The Magnuson-Stevens Fishery Conservation and Management Act (MSA) has not been reauthorized since 2007; yet, our fisheries have experienced widespread changes since that time. Sustaining America's Fisheries for the Future Act confronts this daunting task by taking aim at topics such as rebuilding overfished stocks, improving recreational data collection, and improving management for forage species.

Forage management is extremely important to me as an angler because I know its direct impact on recreational and commercial fishing opportunities. Forage species must be managed with a firm understanding of the needs of the predatory fish, birds, and marine mammals that depend upon abundant populations of prey items. Since the health of forage fish fisheries has cascading effects, an ecosystem-based approach helps account for a broader range of effects, including trophic interactions among species and the ongoing environmental and climatic shifts within these systems.

This bill would require an assessment of the potential impacts of any new commercial forage fish fisheries. Our forage fisheries are too critical not to require an ecosystem-based model for management. These species represent the fundamental building blocks of the marine food web, and therefore need to be valued as such.

I am extremely encouraged by the foresight of Representatives Jared Huffman (D-CA-02) and Ed Case (D-HI-01) in introducing H.R. 4690, the Sustaining America's Fisheries for the Future Act. This common sense legislation can lead to a more sustainable future for our fisheries—maintaining healthier marine ecosystems, supporting local marine communities, and boosting the blue economy.

Sincerely,

ANDREW BRAKER

Cape Cod Salties Sportfishing Club

November 10, 2021

Hon. Jared Huffman, Chairman
Hon. Cliff Bentz, Ranking Member
Subcommittee on Water, Oceans, and Wildlife
Committee on Natural Resources
1324 Longworth House Office Building,
Washington, DC 20515

Dear Congressmen Huffman and Bentz:

I am an avid angler and President of the Cape Cod Salties Sportfishing Club. I write today in support of the Sustaining America's Fisheries for the Future Act (HR 4690).

The Cape Cod Salties organization was founded in 1959 by commercial striped bass fishermen concerned with access to the shore line. Today, we are an organization of men and women, from all walks of life and all levels of angling proficiency from novice to professional. We are delighted to know that NOAA Administrator Dr. Rick Spinrad and NOAA's Senior Climate Advisor Ko Barrett are key members of the US delegation to the United Nations Climate Change Conference in Scotland this week.

HR 4690 addresses many of the issues we have been advocating for in recent years. In particular we support the robust climate change initiatives in the bill as climate impacts are having a profound impact on habitat, fish and anglers in Massachusetts. And, MSA in its present form is not equipped to handle the changes we are experiencing, as science tells us climate impacts are growing exponentially. The Gulf of Maine to our north is warming faster than any other ocean in the world.

We support the idea of the National Marine Fisheries Service stepping up to settle disputes if Regional Councils cannot decide who is responsible for a specie's Fisheries Management Plan (FMP) when stock movement occurs due to climate change impacts. We also support the related issue of seats on Councils where states have no representation.

The bill tries to address the issue of stocks shifting into different Council jurisdictions due to climate change by having the New England, Mid-Atlantic and South Atlantic Councils having seats on each other's council. The idea has merit but needs work to more closely reflect where the fish are today and where they will be in the near-term future.

We applaud using electronic recording and citizen science to complement fisheries data making it more robust to manage stocks and encourage Electronic Technology (ET) use particularly when it is used to assess recreational fishing and climate change impacts.

MSA has been working, so we need to keep science-based Allowable Catch Limits (ACLs) and rebuilding timelines strong to rebuild fish stocks as they have started to falter since 2018. Today a fifth of known stocks are overfished. Overfished stocks, such as Gulf of Maine Atlantic cod, may become a thing of the past. It has been overfished for 30 years.

We ask the Subcommittee and all members of Congress to support the Sustaining America's Fisheries for the Future Act.

Thank you for the good work.

Sincerely,

JOHN CREIGHTON,
President

November 9, 2021

House Natural Resources Committee
1324 Longworth House Office Building
Washington, DC 20515

Re: Letter to Committee H.R. 4690

Dear House Natural Resources Committee Members:

I'm writing to express my wholehearted support for H.R. 4690—Sustaining America's Fisheries for the Future Act of 2021. Reauthorizing the Magnus-Stevens Act is the most significant step that this Congress can take to sustain commercial and recreational fishing communities and is long overdue.

I make my living as a full-time saltwater fishing guide. Home is mid-coast Maine but I extend my season by traveling to Massachusetts and North Carolina spring and fall and host clients on fishing expeditions during the winter. Addressing climate change and its impacts on ocean ecosystems, specific fisheries, and coastal communities in LAW may be the most impactful update to the MSA that this bill contains. I see firsthand changes where I fish in both the species I target, the forage fish that attracts them, and the species harvested commercially by my neighbors and dock mates. I'm stunned at how frequently climate change implications and uncertainties are left out of fisheries management decisions, often as a result of limited research and data collection. I hear fisheries scientists repeatedly express concerns that they don't have the information that they need to make best decisions and given the rapid rate of change in ocean ecosystems, this can't continue.

H.R. 4690 would also modernize fisheries science and data collection for recreational sectors. Despite the fact that I "fish" for my income, my activities are categorized under "recreational fishing efforts". Commercial harvesters now provide accurate data on effort, harvest, economic impact but there are huge gaps on the recreational side of the stock assessment and management equation. We too need to be accountable for our catch. The impact that our industry has on coastal economies is meaningful. Our business is directly dependent upon healthy, sustainable fisheries and right now our best available science is too often lacking.

Ecosystem management, improving stakeholder participation, protection of forage species and fish habitat are all significant improvements to MSA that are within reach. Sustaining coastal communities and businesses like mine is possible with sound decision making. I urge you to pass H.R. 4690 as quickly as possible.

Sincerely,

CAPT. PETER FALLON,
Gillies & Fallon Guide Service
President, Maine Association of Charter Captains
Member, American Saltwater Guides Association

November 9, 2021

Hon. Jared Huffman, Chair
Hon. Ed Case, Member
Subcommittee on Water, Oceans, and Wildlife
House Natural Resources Committee
1324 Longworth House Office Building
Washington, DC 20515

Dear Chair Huffman and Representative Case:

We write on behalf of our organizations and the millions of members we collectively represent, to support H.R. 4690, the Sustaining America's Fisheries for the Future Act of 2021.

The Magnuson-Stevens Act has evolved since its original passage in 1976 to become a strong, science-based framework for managing our nation's fisheries. Key mandates were added in 1996 and 2006, to curb overfishing, rebuild fish stocks, protect essential fish habitat, and reduce bycatch in federal fisheries. As a result, 48 stocks have been rebuilt to healthy levels, and annual catch limit management has been rolled out across the country, reducing overfishing substantially.

Despite this success, our fisheries today face a number of threats. Climate change in particular looms large: the oceans are growing warmer and more acidic, circulation patterns are changing, fish populations are shifting their ranges and showing altered productivity, and extreme weather events are becoming more frequent. Traditional challenges also continue, in the form of newly-overfished stocks, rebuilding failures, and ongoing overfishing, to name a few.

This is the time to rise to the challenge of climate change and strengthen our framework for fishery management. H.R. 4690 prioritizes climate-ready fishery management and improved sustainability in the face of current challenges. H.R. 4690 moreover is based on an extensive stakeholder process, in which input was gathered and considered from fishermen, managers, scientists, conservation groups, and interested parties across the country. As a result, the bill contains measured compromises and targeted solutions, which draw on the broad base of information gathered in the past few years.

While specific topics are addressed below, we note as an overarching matter the significant increase in resources indicated by the authorizing language in H.R. 4690. This is a crucial part of the bill, as it will enable both the National Marine Fisheries Service (NMFS) and the Regional Fishery Management Councils to implement the ambitious new measures and programs provided for in the rest of the bill. We commend the authors of H.R. 4690 for including a substantial increase in resources for federal fishery management, and we hope and expect to see this increase carried forward in the appropriations process.

1. Climate-Ready Fishery Management

As climate change rapidly alters the ocean, our nation's fishery management law remains largely rooted in the 20th century. The Magnuson-Stevens Act currently lacks any mention of climate change, and provides no guidance as to how managers should address climate impacts on fisheries. Reauthorization offers the opportunity to incorporate climate change into the law, and to specify appropriate procedures for doing so. Title I of H.R. 4690 presents a number of concrete steps toward addressing climate change in fishery management, which will strengthen the federal management framework and lay the groundwork for climate-adapted fisheries.

A. Integrating Climate Into the Fishery Management Process

Sections 101 through 104 of H.R. 4690 effectively integrate climate change into the management structure of the Magnuson-Stevens Act, which is critical to having a climate ready management system. Climate change must be included in assessing and specifying a fishery's maximum sustainable yield and optimum yield, as well as in identifying the fishery's scientific and data needs. Fishery management plans also must analyze the expected impacts of climate change on the fishery, review fishery vulnerability to climate impacts, and identify shifts in the range and distribution of managed stocks. The new statutory requirements in H.R. 4690 will give managers an opportunity to consider directly the challenges they face, and how they can respond and adapt.

We further support the addition of resilience to the primary requirement for fishery management plans, in Section 303(a)(1)(A) of the Magnuson-Stevens Act. Climate change is dramatically increasing the importance of resilience for fish

populations, as changing ocean conditions, altered trophic relationships, extreme events, and disrupted timing cycles will make it more difficult for fish stocks to thrive or maintain their populations into the future. Adding resilience to the fishery management plan requirements will help establish it as a goal for managers going forward.

We also support the provision prioritizing climate vulnerability assessments, which will be important in focusing management attention on fisheries and stocks on the front lines of climate change. Climate vulnerability assessments are an increasingly developed practice, as seen in NMFS's peer-reviewed methodology as well as its regional assessments, which will be completed shortly. Managers must assess the vulnerability of their stocks on an ongoing basis, using the best scientific information available, and take action to ensure the sustainability of the most vulnerable populations.

The creation of a Climate-Ready Fisheries Innovation Program also is important, as it will mobilize resources to develop new tools and approaches for climate-adapted fisheries management. Finally, we support the addition of climate change to the Act's provisions on scientific programs and Council member training, which accurately reflect the importance of climate change to fisheries management in the 21st century.

B. Managing Shifting Stocks

A significant proportion of federally managed fish stocks along the U.S. East Coast have shifted north or offshore in recent years, as they seek cooler waters. For example, the summer flounder population, historically centered off North Carolina, has shifted to off New York and Rhode Island. Black sea bass, once confined to the Mid-Atlantic region, are starting to colonize the Gulf of Maine. These trends are expected to continue for the foreseeable future, and will thoroughly upend traditional fishing patterns as well as the composition of marine ecosystems.

Management coordination across regions becomes crucial in the face of range shift. Stocks that previously did not straddle boundaries may start to, and stocks that already straddled boundaries may change their relative abundances across the boundary lines. Management now must be dynamic, but federal law currently lacks a strong requirement for coordination across regions—a consequence of the historical assumption that fish population distributions are relatively static.

We support the comprehensive framework in H.R. 4690 for managing fisheries that cross the jurisdictional boundaries between Regional Fishery Management Councils, as it will provide clear ground rules for dealing with stocks as they undergo climate-induced range shift. The neutral structure is important for determining management authority, and will help to avoid arbitrary decisions and political tensions when jurisdictional disputes arise. Cross-regional coordination is an important element of climate adaptation in fishery management, and we appreciate that H.R. 4690 provides a workable policy solution in this area.

C. Emerging Fisheries

As fish populations shift into new areas, fishermen may be interested in catching them, and new fisheries can develop quickly. Similarly, as stocks leave a region, fishermen may begin targeting different species, some of which may be unmanaged. These kinds of emerging fisheries currently are not regulated in a systematic manner.

Federal management needs a regulatory pathway for new fisheries, with explicit provision for experimental fishing and procedures to bring unmanaged species into management. This will ensure emerging fisheries develop in a smart, measured manner, and do not outpace the ability of science and management to provide guidance. Our organizations support the provisions in H.R. 4690 that accomplish this, as it will let new fisheries develop with adequate science and management, and avoid the costly boom-and-bust cycle of unmanaged fisheries. Emerging fisheries present an opportunity to get management right from the start, and in so doing, establish productive, long-term economic opportunities.

2. Council Accountability and Representation

The Regional Fishery Management Councils generally act as first movers in fishery management under the Magnuson-Stevens Act, and as such the integrity of their decisions is critically important. Our organizations support H.R. 4690 as it addresses several current gaps in accountability, transparency, and representation for the Councils.

A. Clarifying the Lobbying Prohibition

We support the lobbying-related provisions of H.R. 4690 which serve to clarify existing restrictions and address gaps in coverage, and should lead to a better understanding for both Council members and the public of what the rules are on lobbying as well as how they are implemented.

Contrary to what some have argued, H.R. 4690 does not significantly expand the scope of what constitutes prohibited lobbying by Councils to federal or state legislatures. Under current statutory law, the Councils cannot use federal funds for lobbying executive or legislative branches in connection with their financial awards. NMFS's own regulations reiterate this prohibition, barring the "use of Federal funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with the award." 50 C.F.R. § 600.227(a). The Sustaining America's Fisheries for the Future Act does not alter Councils' obligations with respect to federal legislative lobbying, and it only minimally alters restrictions on state legislative lobbying, by bringing them into alignment with the existing restrictions on the federal side.

The bill similarly clarifies the prohibition on Council lobbying of the executive branch, by prohibiting Council lobbying regarding Executive Orders, Presidential proclamations, or similar Presidential directives or decrees. The language in this section is clearly written, and demarcates a set of lobbying actions that the Councils cannot take—and should not currently be taking, regardless of H.R. 4690. Notably, *the executive branch lobbying prohibition in the bill does not encompass the routine communication the Councils undertake with NMFS during the fishery management process*, given the plain text of the bill as introduced, and accordingly will leave the unique and important relationship between the Councils and NMFS intact.

This bill further would promote transparency by requiring Councils to maintain publicly on their websites communications that seek to influence legislation or Presidential actions, as well as communication with legislators or executive branch officials on subjects other than routine fishery management. These categories are narrowly drawn, and would not require documentation of all communications with NMFS—only those that are outside the scope of the roles Councils were designed to fulfill.

B. Financial Interests and Recusal

As a public trust resource, our nation's fisheries must be managed by qualified stewards for the public good. While engagement by commercial and recreational fishing participants is important for representation and informed decision-making, the Regional Fishery Management Council structure must be insulated from conflicts of interest. To this end, the law already requires voting members to recuse themselves from matters that could have a "significant and predictable" effect on their financial interests, and requires financial interest disclosures to be posted and available to the public. *See* 16 U.S.C. § 1852(j)(7), (5). We support the targeted amendments in H.R. 4690, which will advance Congressional intent to prevent conflicted decision-making and preserve transparency in management.

Specifically, we appreciate the clarification that conflict determinations must be made by "an attorney employed in the Office of the General Counsel of the National Oceanic and Atmospheric Administration with expertise in Federal conflict-of-interest requirements who is designated by the Secretary of Commerce, in consultation with the Council, to attend Council meetings and make determinations." This not only helps ensure that the resulting determinations will accord with applicable laws and regulations, but also promotes equitable and impartial determinations with respect to all voting members.

We also appreciate the requirement in H.R. 4690 that financial disclosures be made available on the agency and Council websites. At a time when more Americans than ever are interested in where their seafood comes from and how our oceans are managed, it is essential to promote transparency in federal fishery management.

C. Inter-Council Representation in the Northeast

Reflecting stakeholder input received over the past few years, the provision in H.R. 4690 for cross-representation between the Mid-Atlantic Fishery Management Council and the New England Fishery Management Council is an important step. We support this provision insofar as it promotes cross-regional coordination—increasingly important given climate change—and it reflects substantial public input received during the listening sessions.

D. Tribal Representation

The Fisheries for the Future Act takes important steps to secure representation of Native American Tribes in the fishery management process. Effective fishery management includes the best available scientific information, which includes Traditional Knowledge and necessitates Tribes having a meaningful role in management. This legislation promotes these goals by refining the requirements for the existing Tribal seat at the Pacific Fishery Management Council in response to requests from several Tribes during the public listening sessions. It also adds two designated Tribal representatives to the North Pacific Fishery Management Council—a major improvement that will give voice to the significant number of Tribes in Alaska. This change will respect Tribal sovereignty, bring important knowledge and views to the federal fishery management process, and will provide more equitable representation for the original stewards of the region's marine fisheries. We support these steps to expand Tribal input in management.

E. Ensuring Needed Conservation and Management Actions Are Taken

Fishery Management Councils are complex entities, and in certain circumstances inaction from a Council can leave a fish population without needed conservation and management measures. Lacking appropriate management, a stock's ability to produce maximum sustainable yield in the long run can be jeopardized. To deal with these situations, H.R. 4690 strengthens the provisions in the Act for Secretarial action in the face of Council inaction, and clarifies the process under which such actions may be taken. Councils will retain their role as first movers in the regulatory process under H.R. 4690; the change simply ensures that inaction by a Council cannot be the reason for a stock lacking necessary management. While feedback has been received regarding the timing of Secretarial action under these new provisions, we trust this issue can be solved and look forward to a solution that maintains the important accountability role of the Secretary.

F. Ethics and the Council Process

All federal agencies should have zero tolerance for sexual harassment, whether committed by agency staff or by the members or staff of bodies they govern, such as the Regional Fishery Management Councils. We support H.R. 4690 in applying the full suite of federal sexual harassment rules to Council staff, members, and advisory panels, as well as the necessary result that offending persons be individually liable for their actions—with the Secretary authorized to impose civil penalties including suspension or expulsion from participation or membership. This change will reduce incidents of harassment by increasing the consequences for perpetrators and by increasing survivors' confidence in their ability to effectively respond to harassment when it occurs. We also support the amendments to 16 U.S.C. § 1857(L), to clarify that sexual harassment is prohibited both on and off vessels, and regardless of whether or not it is committed forcibly. Overall, we expect these changes will reduce harassment as well as make it easier for Council staff and employees to comply, and to know when compliance has been achieved.

3. Improving Rebuilding Outcomes

Congress amended the Magnuson-Stevens Act in 1996 to add a mandate for rebuilding all overfished stocks within a time certain. While the Act's rebuilding provisions have been successful in many cases, a substantial number of stocks remain overfished. The agency's most recent status update shows 49 stocks on the overfished list,[1] and the number has been increasing in recent years. H.R. 4690 contains important changes to the rebuilding provisions in the Act that would create accountability in the rebuilding process and help return our nation's fisheries to healthy levels—in turn better supporting ecosystem function, and providing opportunities for sustainable fishing to all users.

A. Ensuring Adequate Progress

Adaptive management is a key component of rebuilding. The rebuilding provisions as added in 1996 require NMFS to "review any fishery management plan, plan amendment, or regulations required by this subsection at routine intervals that may not exceed two years," and determine whether regulations have "resulted in adequate progress toward ending overfishing and rebuilding affected fish stocks." 16 U.S.C. § 1854(e)(7). In practice, however, NMFS has failed to make adequate

[1] *See* NOAA Fisheries, 2021 Quarter 3 Update through September 30, 2021, available at https://media.fisheries.noaa.gov/2021-10/Q3%202021%20Stock%20StatusSummary%20Changes.pdf.

progress determinations for rebuilding stocks, and those that are made are not always shared with the public. We support requiring the agency to publish the results of its determinations, including the basis for the determination, thereby promoting transparency and compliance.

We also support clarifying the criteria for when a stock is making "adequate progress" toward rebuilding. NMFS currently has criteria in its regulations for making these determinations, see 50 C.F.R. § 600.310(j)(3)(iv), but the agency's criteria are disconnected from whether the stock's biomass is actually increasing—which is the entire purpose of the rebuilding provisions. It is appropriate for H.R. 4690 to re-ground the notion of "adequate progress" in actual rebuilding, by confirming that "adequate progress" does in fact require the stock's status to be improving.

Another important rebuilding addition in H.R. 4690 is a structure for when a stock is determined to be making inadequate progress, including a designation of when a rebuilding plan has failed and steps to be taken when that occurs. Current practice in this area is poorly-defined and tends to produce weak results; rebuilding plans are allowed to fail with no consequences, and NMFS allows the Councils to simply produce another plan and "reset the clock" for rebuilding. As a result, many stocks have languished in an overfished status for decades, and some are on their second or third rebuilding plans with no meaningful tightening of management to promote actual rebuilding. Clarifying procedures are needed, and we support requiring a higher likelihood of success for a new rebuilding plan if the previous one has failed.

B. Timeframes for Rebuilding

One area of concern for our organizations about H.R. 4690 is the bill's removal of the default ten-year timeframe for rebuilding. The Sustainable Fisheries Act of 1996 required all overfished stocks to be rebuilt in as short a time as possible, and not to exceed 10 years except in certain designated situations. We support this requirement and recommend not changing it.

The ten year default maximum time for rebuilding helps to ensure that managers take rebuilding seriously. Evidence is clear that "[m]ost successful rebuilding program[s] have incorporated substantial, measurable reductions in fishing mortality at the onset, rather than relying on incremental small reductions over time."[2] A ten-year timeframe prevents managers from extending the rebuilding period over an interminable number of years, and attempting to rebuild while maintaining high fishing mortality rates.

Ten years also was a reasonable compromise. Congress in 1996 understood correctly that the majority of overfished stocks are capable of rebuilding in approximately five years in the absence of fishing, so doubling that time frame was an intentional way of avoiding fishery closures and accounting for the short-term interests of fishermen. As noted by several prominent scientists, "This optimizing balance was deliberate and compassionate, not arbitrary."[3]

In practice, moreover, the statutory language on rebuilding timeframes already has ample flexibility. When a stock is unable to rebuild within the default ten years due to biology or environmental conditions, longer timeframes may be used. Further time is provided for preparation of rebuilding plans. This flexibility is reflected in the results of a 2013 analysis, which found the average time period for rebuilding plans to be nearly twenty years.[4]

Because of the existing rebuilding mandate and the guideposts it provides, our nation has made real strides toward restoring overfished populations to healthy levels. But without strong timing requirements that lead to early reductions in fishing mortality, managers in some regions will allow overfished stocks to remain at low population levels for long periods—undermining their resilience, putting their recovery at risk, and jeopardizing the health of broader ecosystems.

4. Solving Bycatch Problems

Over 800 million pounds of commercial catch is discarded in the United States each year, representing a tremendous amount of waste and unnecessarily killed

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[2] Steven A. Murawski, Rebuilding Depleted Fish Stocks: the Good, the Bad, and, Mostly, the Ugly, 67 ICES J. Marine Sci. 1830 (2010).

[3] Carl Safina et al., U.S. Ocean Fish Recovery: Staying the Course, 309 Science 707 (2005).

[4] Brad Sewell et al., Natural Resources Defense Council, Bringing Back the Fish: An Evaluation of U.S. Fisheries Rebuilding Under the Magnuson-Stevens Fishery Conservation and Management Act, at 15 (Feb. 2013), available at https://www.nrdc.org/sites/default/files/rebuilding-fisheries-report.pdf.

marine life.[5] Bycatch is also an economic problem; NMFS has estimated that discards cost fisheries $427 million in lost sales at port, $4.2 billion in seafood-related sales, and 64,000 jobs annually.[6] We strongly support measures to reduce bycatch, including the following policy solutions in H.R. 4690.

A. Bycatch and Practicability

While improved science and technology offers the promise of reducing bycatch, the current allowance in the Magnuson-Stevens Act to minimize bycatch to "the extent practicable" has resulted in fully achievable management measures being discounted if they increase costs even moderately, or if they require any adaptation of fishing technology or gear. Less effective measures of bycatch reduction therefore remain in place even when it is clear that more could feasibly be done to reduce unnecessary loss of ocean life and resources.

The "practicability" also operates as a de facto allocation standard in some situations. In the North Pacific, for example, the practicability standard is also being used to justify excessive levels of bycatch, effectively prioritizing bycatch of industrial fisheries over historic and subsistence fisheries such as halibut and salmon.

We support H.R. 4690's improvements to the bycatch reduction standard by removing the qualifier of practicability that has repeatedly prevented bycatch reductions from being effectively implemented. This change would ensure that meaningful bycatch reductions are pursued, and would encourage innovation and improve accountability for bycatch that otherwise could and should have been avoided or released alive. It is worth noting that removing the practicability standard still maintains the qualifier that bycatch only needs to be minimized, but not prevented.

B. Standardizing Bycatch Reporting

Under current law, fishery management plans are required to "establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery." 16 U.S.C. § 1853(a)(11). Despite this instruction to standardize bycatch reporting in federal fisheries, added by Congress in 1996, there remains a wholesale lack of uniform reporting of bycatch under the Magnuson-Stevens Act. Bycatch may be measured by weight or individuals, it may be reported at the species level or in groups of species, and estimates may be based on logbooks, observer data, or other sources. As a result, our fishery management system suffers from a lack of an effective bycatch reporting system that accurately and precisely monitors and reports discards of each managed stock across all fisheries and gear types. Without effective monitoring or reporting, it is impossible to know whether bycatch is being avoided or minimized to the extent practicable, and poor bycatch monitoring and reporting further can impede annual catch limit management.

We support standardized reporting and assessment of bycatch across regions and the development of standards for producing accurate and precise information regarding bycatch. By locating this requirement outside the individual fishery management plan requirements of Section 303 of the Act, H.R. 4690 ensures that bycatch reporting and assessment finally will be standardized at a nationwide level.

5. Protecting Essential Fish Habitat

The Magnuson-Stevens Act recognizes that marine and estuarine habitats are critical support systems for healthy fisheries, and that both fishing practices as well as activities unrelated to fishing (e.g, dredging, mining, and energy development) can contribute to habitat loss and degradation. However, implementation of the law's essential fish habitat (EFH) provisions and subsequent agency guidance has been inconsistent to date. We support strengthening the EFH provisions as proposed in H.R. 4690.

A. Essential Fish Habitat Consultation

Today's fishery managers are grappling with far more complicated ocean management processes than their predecessors. Competing activities from offshore energy, aquaculture, submarine cables and other ocean users are often proposed and developed without any binding obligation to conserve and protect fish habitat. Although the current legal framework requires federally permitted projects to consult with NMFS on habitat impacts, this "consultation" requirement lacks teeth to require meaningful avoidance of impacts to coastal and marine habitats. We support strengthening the EFH consultation process so as to ensure that fishery managers

[5] *See* Lee R. Benaka et al. (eds.), National Marine Fisheries Service, U.S. National Bycatch Report First Edition Update 3, NOAA Tech. Memo. NMFS-F/SPO-190 (Feb. 2019).

[6] Wesley S. Patrick and Lee R. Benaka, "Estimating the Economic Impacts of Bycatch in U.S. Commercial Fisheries," Marine Policy 38 (2013): 470–475, doi: 10.1016/j.marpol.2012.07.007.

and communities have an opportunity to have their concerns addressed, and to require EFH to be considered in the future development of our shared ocean.

We agree with the stepwise "avoid," then "minimize and mitigate" habitat conservation strategy for EFH consultations outlined in H.R. 4690. This is consistent with an overall "mitigation hierarchy" strategy that is used in many conservation and management processes to appropriately manage adverse effects on habitats and biodiversity. It does not imply a requirement for outright removal of all adverse effects that may occur from human activities, but simply prioritizes avoidance of adverse effects ahead of minimization and mitigation. Additionally, projects that may have an adverse effect on Habitat Areas of Particular Concern would—appropriately—be subject to monitoring and adaptive management, to minimize impacts to these particularly important portions of EFH.

B. Fishing Impacts on Essential Fish Habitat

The Magnuson-Stevens Act's existing caveat that fishing impacts to EFH must be minimized only "to the extent practicable" has resulted in insufficient protection for EFH. The majority of commercial fishing gears have some level of adverse effect on EFH, and fisheries in many regions still rely on bottom-tending gears such as bottom trawls and dredges, which can be devastating to marine habitats. Yet the Councils' EFH authority has been interpreted as largely discretionary, allowing them to prioritize access to fishing areas, even if such fishing is harming habitat. Under this authority, half of the Councils have protected little (5 percent or less) of their designated EFH from even the most harmful fishing gears,[7] and those that have protected meaningful portions of their EFH have done so largely though "freeze the footprint"-type closures, which allow fishing to continue where it has historically occurred.

We support H.R. 4690 in recognizing the role of healthy fish habitat, and requiring more holistic minimization of adverse effects to EFH. The bill strikes an appropriate compromise by not requiring outright removal of all effects, but rather mandating conservation and management measures that will minimize impacts—a broad standard to be further honed by agency guidance.

We also note that H.R. 4690 would codify various aspects of current regulations on EFH, including (1) requiring identification of Habitat Areas of Particular Concern; (2) requiring Councils to revise their EFH designations on a consistent schedule; and (3) providing a statutory definition of "adverse impact" to EFH. Some observers have raised questions on these provisions, but they appear to be based on the misperception that changes are being made to the status quo.

6. Recognizing the Role of Forage Fish

Forage fish are foundational to marine food webs, serving as prey for economically and ecologically important fish and other marine life. Management of these species under federal law is inconsistent and, in some cases, nonexistent. We support H.R. 4690's provisions to ensure forage fish management addresses both the health of forage stocks themselves, as well as the role they play for wildlife and fishermen alike, so as to maintain productive oceans and other ecosystems into the future. The bill provides for best-practice approaches currently adopted in some regions to be scaled up and applied nationwide. For instance, currently unmanaged forage fish populations should be assessed to understand the impacts that any new forage fishery would have on other fisheries, coastal communities and the ocean environment, before such a new fishery is authorized.

7. Strengthening Science and Data

Science forms the foundation of fishery management under the Magnuson-Stevens Act. The Fisheries for the Future Act bolsters the role of science and data in several important ways, which we support.

A. Duties of Scientific and Statistical Committees

Section 505(b) of the Fisheries for the Future Act clarifies and builds out the role of the Councils' Scientific and Statistical Committees (SSCs). The SSCs currently are tasked with providing the Councils with a wide range of scientific advice and recommendations, including acceptable biological catch, rebuilding, habitat status, and more. H.R. 4690 appropriately gives SSCs the opportunity to provide recommendations for promoting the resilience of fish stocks to climate change, as

[7] *See* Brad Sewell & Molly Masterton, Natural Resources Defense Council, A Safety Net for Ocean Fisheries: The Case for Stronger Protection of Essential Fish Habitat Under the Magnuson-Stevens Act (Apr. 2021), available at https://www.nrdc.org/sites/default/files/safety-net-ocean-fisheries-report.pdf.

well as reports on climate change impacts to fisheries. These new topics for SSC advice will be critical in advancing climate-adapted fishery management. Population resilience and climate impacts are increasingly important, and the SSCs' review and synthesis role is well-suited to distilling complex scientific information for use by the Councils in management. The increase in resources envisioned by H.R. 4690 will support these functions of the SSCs, through direct support to Councils as well as through staff hours and data products from the agency.

B. Improving Recreational Fishery Data

Recreational fishing data is challenging to collect given the large number of U.S. anglers, the many points of access they use, and the fact that retained catch is kept rather than sold. We support the Fisheries for the Future Act provisions that require NMFS to establish guidelines to improve recreational catch data and to integrate data from multiple sources to better ensure that recreational catch is monitored appropriately and remains accountable to annual catch limits. Further improvements include a dedicated program to improve the data and management of recreational fisheries, with a suggested menu of areas for research. These provisions will lead to more effective management of recreational fishing and increased sustainability in many fisheries.

Thank you for your consideration, and for your attention to these important issues. H.R. 4690 is a strong starting point for reauthorizing and improving the Magnuson-Stevens Act, and reflects the wide range of stakeholder input that went into crafting it. We recommend moving this bill forward, and would welcome the opportunity to engage further on it in the future.

Sincerely,

Earthjustice

Oceana

Ocean Conservancy

National Audubon Society

Natural Resources Defense Council

November 11, 2021

Hon. Jared Huffman, Chairman
Hon. Cliff Bentz, Ranking Member
Subcommittee on Water, Oceans, and Wildlife
House Natural Resources Committee
1324 Longworth House Office Building,
Washington, DC 20515

Dear Chairman Huffman and Ranking Member Bentz:

My name is Gregory Fitz. I am a salmon and steelhead angler, fishing writer, and conservationist living in Seattle, Washington. I am writing to express my support for the forward-looking Sustaining America's Fisheries for the Future Act (H.R. 4690) and the legislative effort to update the foundational Magnuson Stevens Act (MSA) to continue protecting our critical ocean fisheries and habitat, and the coastal communities that depend on them.

Many aspects of this legislation will help ensure and recover America's sustainable fisheries, but I'm particularly pleased to see how H.R. 4690 directly addresses the growing impacts of the changing climate and closes loopholes concerning bycatch.

Salmon and steelhead are born in freshwater river systems and soon migrate to the ocean for a few years of feeding and growth before returning to their home watersheds to spawn. They are coldwater species and the warming North Pacific and ocean acidification are already having profound consequences for the food web they depend upon as juveniles and adults. In 2021, steelhead have experienced some of their worst run counts ever recorded and much of these recent losses are the result of poor ocean survival during recent years of abnormally high temperatures. Salmon are the keystone species of the Pacific and Inland Northwest ecosystems and have sustained Indigenous communities since time immemorial. They are a crucial foundation of the Northwest's culture and economy and are targeted extensively by offshore, marine, and terminal commercial and recreational fisheries from California to Alaska.

Importantly, H.R. 4690 will expand research and allow fishery managers up and down the coast to effectively incorporate rapidly evolving climate science and data into fishery planning in ways that will allow the communities depending on salmon to adapt and responsibly continue to fish into the future. It is a critical, proactive step for our fisheries.

I am encouraged by the increased protections within H.R. 4690 for fish habitat and forage fish species, but I am especially happy to see the new provisions designed to report, limit, and prevent bycatch. These losses needlessly degrade functioning ocean ecosystems, prevent fish stocks from recovering, and deeply curtail the potential food and economic value of public fishery resources. For all of the well-documented positive benefits of the MSA, the lack of requirements to meaningfully address bycatch impacts created loopholes that allowed a glaring inconsistency with the law's overarching goals for sustainable fisheries and thriving coastal communities. These loopholes were exploited, and managed, to different extents by separate regional fisheries. Fortunately, H.R. 4690 repairs these gaps and will provide important, consistent tools for managers to vastly improve how bycatch is documented, managed, minimized, and even stopped in some cases. These wise provisions will be a huge benefit to every community who depends upon our shared ocean fisheries.

Thank you for your time and consideration. I am grateful for the opportunity to offer my support for the Sustaining America's Fisheries for the Future Act (H.R. 4690).

GREGORY FITZ

Old Maine Outfitters

November 11, 2021

House Natural Resources Committee
1324 Longworth House Office Building
Washington, DC 20515

Re: Letter to Committee H.R. 4690

To whom it may concern,

My name is Patrick Rudman, and I am the owner of Old Maine Outfitters in South Portland, Maine. Since its inception in 2019, Old Maine Outfitters has been a carbon-neutral company and a proud member of the Fly Fishing Climate Alliance. In addition, my company donates 25% of its profits to fisheries conservation, with a focus on striped bass—our primary saltwater game fish here in Maine, and a species that is in grave trouble. My business depends heavily on the outdoor community here in Maine and all along the east coast. The vast majority of my customers are anglers passionate about our oceans and our fisheries, and I am certainly no different. It's because of these reasons, I'm writing to express my support of the reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). Since the last time the MSA was reauthorized in 2007, we have experienced considerable changes to our fisheries and environment and I'm encouraged to see that this bill tackles some of the most daunting issues such as climate-ready fisheries, rebuilding our overfished/depleted stocks, improving our recreational data collections, and better management for forage species.

It's undeniable that we are in a critical period of our lives when it comes to our climate. Climate change is making ocean waters warmer, more acidic, and lower in oxygen. The Gulf of Maine is warming ~95% faster than the rest of the world's oceans and was in a marine heatwave for much of 2021 according to the Gulf of Maine Research Institute. At the same time, sea levels are rising and extreme events such as hurricanes, coastal erosion and sea ice loss are becoming more frequent. The populations of fish are shifting to seek cooler waters, and many fish stocks are becoming less productive and less abundant, making it harder for those stocks to support ecosystems and fisheries. These changes are setting the stage for devastating loses for our fisheries and economy if left unaddressed.

I am encouraged to see that the changes to the MSA proposed in the bill will address climate change in the law for the first time. These changes will be the foundation for building a strong and resilient management system for the future allowing managers to consider climate impacts in management decisions while referencing expanding climate science and data. These considerations are absolutely necessary when structuring rebuilding plans for these depleted species.

Our climate is changing and with that our oceans and fisheries are changing as well. Stocks are shifting and like all the east coast we are seeing species never seen before here in Maine. If we do not get ahead of these changes and begin to manage our fisheries using the best available science as it pertains to all environmental aspects, then we are doing a great disservice not just to ourselves, but to our climate, fisheries, and generations to come.

The proposals in the MSA are inevitable management considerations. I am extremely encouraged with the foresight of Representatives Jared Huffman (D-CA-02) and Ed Case (D-HI-01) in introducing H.R. 4690, the Sustaining America's Fisheries for the Future Act. This common-sense legislation can lead our decisions for the next decade.

Thank you for your consideration.

Sincerely,

PATRICK RUDMAN,
Founder

RHODE ISLAND SALTWATER ANGLERS ASSOCIATION
TIVERTON, RHODE ISLAND

November 13, 2021

Hon. Jared Huffman, Chairman
Hon. Cliff Bentz, Ranking Member
Water, Oceans, and Wildlife Subcommittee
House Natural Resources Committee
1324 Longworth House Office Building
Washington, DC 20515

Dear Congressmen Huffman and Bentz:

The Rhode Island Saltwater Anglers Association (RISAA) represents over 7,500 recreational anglers and 28 affiliate clubs in Rhode Island, Connecticut and Massachusetts. We are pleased to take this opportunity to indicate our support for the Sustaining America's Fisheries for the Future Act (HR 4690).

Recreational fishing success is dependent on anglers having access to healthy habitats with an abundance of fish in the water to catch and eat or release. Impacts from climate change are having a big impact on estuaries, fish habitat, and fish. We should consider these changes in how we fish and manage our fisheries.

Anglers are experiencing profound changes from climate impacts of warming water, rising sea level, waste in the commercial fishery and habitat degradation. The fish we catch today are different in type and abundance than what we caught ten years ago.

Warm water fish such as black sea bass, scup and summer flounder have moved into our area in greater abundance. And, cold water fish such as winter flounder and American lobster are now less abundant.

These stock changes in our area have created both challenges and opportunities. The cod fishery south of Cape Cod is a fraction of what is use to be, and nonexistent north of the Cape. Years of a healthy cod stock are gone, no longer in abundance due to climate change and overfishing. Yet the black sea bass shift into our area has created opportunities for anglers.

Shifting stocks have created jurisdictional and allocation challenges. We support the spirt of the bill provision that provides regions with representation on neighboring Councils to help with shifting stock jurisdictional and allocation challenges. However, we suggest taking it a step further as the Fisherman's Fairness Act does, allowing Rhode Island two seats on the Mid-Atlantic Council as RI fishermen land the majority of many of the fish that have shifted to our area due to climate change impacts yet RI currently has no seat on the Council that regulates those species.

Fisheries management needs to be more nimble in the face of climate change. We have to meet the challenge with more precautionary management measures.

The Sustaining America's Fisheries for the Future Act addresses shifting stocks and other impacts to fish due to warming water by providing managers with more needed science so we can get a handle on how fish stocks are changing and ways to use that science throughout the management process.

Protecting forage fish, strengthening fisheries management plans, providing better recreational data are other important features of HR 4690.

We urge the Water, Oceans and Wildlife Subcommittee, the House National Resource Committee and all members of Congress to support the Sustaining America's Fisheries for the Future Act. It is a good step for habitat, fish and fishermen.

Sincerely,

Richard Hittinger,
Acting President

Greg Vespe,
Executive Director

November 10, 2021

Hon. Jared Huffman, Chairman
Hon. Cliff Bentz, Ranking Member
Water, Oceans, and Wildlife Subcommittee
House Natural Resources Committee
1324 Longworth House Office Building
Washington, DC 20515

Dear Chairman Huffman and Ranking Member Bentz:

My name is Rick Crawford, and I am the founder of the Fly Fishing Climate Alliance (FFCA)[1] and President of Emerger Strategies.[2] I was pleased to see that for the first time, H.R. 4690, the Sustaining America's Fisheries for the Future Act, seriously takes on climate change impacts in our fisheries. This only makes sense because the science is telling us that in order to avoid catastrophic effects of climate change, we must halve global greenhouse gas emissions by 2030 and be carbon neutral by 2050. That said, you don't need to be a sustainable business professional, or a climate scientist to know that we need to adapt to the impacts we are seeing now—including the sea level rise we are experiencing in Charleston, stocks of prized marine species shifting north, more acidic marine waters, and the more frequent extreme weather events like hurricanes, marine heatwaves and coastal erosion all of which are effects of climate change. Climate change is happening in real-time and as a recreational angler and a person who represents many businesses in the fly fishing industry, I am deeply concerned about climate change and its impact on healthy fisheries and marine habitats and our preparedness to be able to adapt to shifting stocks, the use of credible science in the fight to save our fisheries and the multiple fishing communities along the South Carolina coast who will also be impacted.

As a recreational angler I am incredibly fortunate to spend a lot of time on the water with a rod in hand, but I am seeing fish and bird species I never used to catch or see growing up in the Lowcountry. I enjoy catching snook and admiring roseate spoonbills just as much as the next guy, but I shouldn't be able to catch or see either one in South Carolina, but as our climate warms, I am seeing more and more. In fact, someone caught a record snook in Charleston Harbor just a few months ago. I have also heard reports that our beloved and delicious shrimp are moving further north as our ocean warms, and I am bringing this to your attention because H.R. 4690, legislation to update the Magnuson Stevens Act (MSA) accounts for this by giving Councils the tools to ensure fishing is sustainable while determining how to manage fisheries across political and boundaries when stocks shift and making sure new fisheries are sustainable.

Just as climate science uses the best possible data and is peer-reviewed by experts in the field to come to an educated conclusion, good fisheries science should incorporate climate change so that we are able to make the best decisions possible to manage our fisheries, and investments in science makes perfect sense to give managers the information and tools they need to ensure that we are tracking the changes climate change is creating and making sure that we maintain healthy, vibrant fish stocks. H.R. 4690 incorporates climate throughout the management system and ramps up the production of climate science and data to enhance the current fisheries information systems we already use. The addition of climate information into our fisheries management system will help build strong and resilient management systems for the future of our fisheries.

Finally, I am also concerned about the impact climate change will have on fishing communities along the South Carolina coast. Fishing communities are vulnerable to several threats, especially as climate change impacts the health of our marine habitats, the bill reforms the way we address disaster assistance to fishing communities which will be important as marine heat waves, harmful algal blooms and other climate related events increase in frequency.

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[1] FFCA is an alliance of fly fishing guides, shops, lodges, brands and nonprofits committed to going carbon neutral by 2030. With over 50 members, it is abundantly clear that the fly fishing industry wants to protect their businesses and the natural resource they depend upon by going carbon neutral.

[2] Emerger Strategies is a sustainable business consultancy that specialized in helping companies measure and reduce their carbon footprint. More and more companies are feeling pressure from consumers, but also companies like Amazon, Wal-Mart, REI and others who are demanding that their suppliers have a climate action plan, or they will be unable to sell products through them.

All of the aforementioned effects of climate change are a bit depressing, and I have found that the cure for depression is action, which is why I am asking you to take action and support readying fisheries for climate change in the upcoming Magnuson-Stevens Fishery Conservation Act (MSA) Reauthorization. The reason I am asking for your support is because MSA has been proven effective since its inception in managing fish stocks, and the effects of climate change are happening now in South Carolina and across the US. Supporting MSA Reauthorization will help to adapt to changing migratory patterns, incorporating climate science to properly manage our fisheries and protect our coastal fishing communities who are dependent upon our natural resources for survival.

Protect what you love,

RICK CRAWFORD

SALMON HABITAT INFORMATION PROGRAM

November 9, 2021

Hon. Jared Huffman
1527 Longworth House Office Building
Washington, DC 20515

Re: Support for the Sustaining America's Fisheries for the Future Act

Dear Congressman Huffman:

As Alaskan commercial fishermen, we are writing to thank you and your staff for drafting and introducing the Sustaining America's Fisheries for the Future Act of 2021. It is imperative that the Magnuson Stevens Act (MSA) be reauthorized and modernized to sustain our fisheries, jobs and communities in Alaska where we continue to experience dramatic declines in fisheries such as salmon, crab, halibut, and cod. The Sustaining America's Fisheries for the Future Act is a well researched and vetted response to these fishery declines and addresses some of the biggest challenges facing Alaska's fisheries, including climate change, bycatch, improved science and research, the need for increased participation and representation of Alaska Native Peoples and Tribal Government on Regional Management Councils, and public participation in the fisheries management process.

With climate change being the biggest existential threat to our fisheries, we appreciate that the bill's approach to modernizing the MSA is through a climate lens. We also agree that allowable bycatch must be further reduced to conserve fish species and protect communities and local participants. Certainly, bycatch use of these key high-value species should not take precedence over their directed harvest.

We also support the bill's bottom-up approach to sustained community and local participation in fisheries and believe that tools for protecting fisheries-dependent communities are needed. Finally, we applaud the bill's requirements for more diverse representation from different fishery stakeholders in the Regional Councils.

We look forward to working with you and the 117th Congress to pass this important legislation and promote science-based management that improves the resiliency of our fisheries and strengthens America's coastal communities.

Sincerely,

Melanie Brown,
Juneau, AK

Robbi Mixon,
Fritz Creek, AK

James Apone,
Anchorage, AK

Cynthia Hicks,
Phoenix, AZ

Karen Rosvold,
Petersburg, AK

George Donart,
Anchorage, AK

Bruce Markwood,
Anchorage, AK

Katie Gavenus,
Homer, AK

Bridget Maryott,
Homer, AK

Sommers Cole,
Juneau, AK

Maureen Roche,
Petrolia, CA

Duncan Van Arsdale,
Burlingame, CA

Eden Romeo,
Anchorage, AK

Andrea Feniger,
Anchorage, AK

Heather Bauscher,
Sitka, AK

Tim Dunn,
Everett, WA

Charles Yearwood,
Sitka, AK

Cole Wibbels,
North Pole, AK

Grace Strong,
Ironwood, MI

Hannah-Marie Garcia,
Anchorage, AK

Martin Remund,
Port Alexander, AK

Statement for the Record

Chief/Chairman "PJ" Pollack B. Simon, Jr.
Tanana Chiefs Conference

December 1, 2021

H.R. 4690, Sustaining America's Fisheries for the Future Act of 2021

Chairman Huffman, Ranking Member Bentz, Alaska's own Representative Young, and members of the Subcommittee on Waters, Oceans, and Wildlife, I am submitting this testimony on behalf of the Tanana Chiefs Conference ("TCC") for the record of the Subcommittee's November 16, 2021 Legislative Hearing on H.R. 4690, *the Sustaining America's Fisheries for the Future Act*.

I want to begin my testimony by applauding this Subcommittee for taking on the important work of reauthorizing the Magnuson-Stevens Fishery Conservation and Management Act ("MSA"). I especially want to commend Chairman Huffman and Representative Young for their tireless efforts. Even though they have offered different visions for what an MSA reauthorization could look like, I do believe that they have approached this task and each other, with mutual respect and a willingness to work together where they are able.

The MSA is incredibly important to ensuring healthy fish stocks, but it has not been reauthorized and updated since 2007. That was almost 15 years ago. It is essential that the MSA evolve to meet the needs of our changing climate, incorporate scientific advances, and become more inclusive of tribal voices and subsistence stakeholders. TCC believes that H.R. 4690, *the Sustaining America's Fisheries for the Future Act* ("SAFFA") accomplishes all three of these priorities.

Background on Tanana Chiefs Conference

The Tanana Chiefs Conference is a non-profit intertribal consortium of 42 communities, including 37 federally recognized Tribes, located across Alaska's vast interior. Headquartered in Fairbanks, Alaska, TCC serves approximately 18,000 tribal members over an area of about 235,000 square miles, which is nearly the size of Texas. TCC is charged with advancing Tribal self-determination and enhancing regional Native unity with the aims to meet the health and social service needs of tribes and tribal members throughout the region.

TCC's communities are situated on rivers such as the Yukon, Kuskokwim, and Koyukuk. These rivers support the salmon runs that our people have depended on since time immemorial. We rely heavily on subsistence fishing and hunting to provide food security in our remote villages where there are often no access roads and the only way to reach the outside world is by boat or plane. When our salmon do not return, the nearest Costco or Safeway is a very long and expensive grocery run from my village of Allakaket.

Dire Subsistence Situation

TCC has watched our salmon runs plummet over the past several years as global warming, ocean acidification, and habitat loss have decimated salmon populations. Our tribes are located upriver and when runs are low, the salmon fishing is closed so that international treaty-based escapement goals into Canada are met. That means our subsistence fishers are left with no fish while the commercial and recreational fishers downstream are guaranteed at least some salmon.

In years of low runs, TCC's tribes have been forced to take the extraordinary step of voluntarily not fishing salmon. This is an extreme hardship for our subsistence fishers, but the difficult choice is necessary to allow as many salmon as possible to spawn so that fish will return in future years. It is difficult for tribal leaders to tell our people not to fish and fill their smokehouses when everyone downstream is

harvesting salmon. No other stakeholder group, except for the tribal stakeholders, have had to make such sacrifices.

Analysis & Comments on the SAFFA

TCC would like to begin by reminding the Subcommittee that tribal rights, and the right to harvest fish, are rooted in the trust responsibility. The trust responsibility applies to all federal agencies, and it is not just confined to the Department of the Interior. The agencies with the responsibility for implementing SAFFA, such as the Department of Commerce and the National Oceanic and Atmospheric Administration, must consider the unique situation of tribes and their trust responsibility to tribes during that implementation.

The following provisions and sections of SAFFA are of particular interest to the TCC:

Title I Climate Ready Fisheries—This is the first time that the MSA will acknowledge and confront at a large scale the impacts that global warming is having on our fish stocks. Our tribes are on the front lines of the global warming crisis and this bill finally acknowledges what we have seen happening for years. Section 102 will require fishery management plans to incorporate climate change into their fish stock assessments and examine the vulnerability of not just the fishery but also its participants.

Section 104 creates the Climate-Ready Fisheries Innovation Program, which will support science and management approaches that address ways to improve the conservation and management of fishery resources. This program could potentially provide the resources that TCC needs to support work that we are already doing to try to save our salmon runs. This federal investment in critical research and solutions is absolutely necessary as we try to limit the impacts that a changing climate will continue to have on salmon.

Title II Supporting Fishing Communities—Section 202 clarifies and recognizes the impact that fishery disasters have on subsistence fishers. Section 201 of the SAFFA will set firm timelines for how the federal government processes fishery disaster requests and the disbursal of appropriated funds. These provisions will ensure that when tribal subsistence fishers suffer a fishery disaster that they will have access to the resources and support that they need in a timely manner.

Title III Strengthening Public Process and Transparency—TCC has long advocated for the need to have tribal voices included in the North Pacific Fishery Management Council. Section 302 will accomplish this by adding two tribal seats to the Council. These seats will guarantee that Alaska's tribes have the ability to finally be heard. TCC also supports Section 302(b)'s approach to conducting tribal consultation on how the seats shall be filled. This can be accomplished through a federal rulemaking.

In addition, Section 302 adds subsistence fishing to the list of required expertise that would allow an individual to sit on any of the regional fishery management councils. It also would require, where applicable, that subsistence fishers be included in the fair and balanced apportionment of council seats. The SAFFA finally elevates and recognizes the voices of subsistence fishers to the same level as commercial and recreational fishers.

Title IV Modernizing Fishery Science and Data—Section 402 calls for the expansion of electronic technologies, which TCC believes is a valuable tool. TCC has long advocated for in-river sonar systems to help with stock assessment and calculations of the size of salmon runs. TCC would like to ask for clarification on whether sonar systems would be considered "other forms of electronic technology."

Section 404 acknowledges the importance of local and traditional knowledge in order to make the most effective management decisions. Our tribes have lived on these lands and rivers for thousands of years and have unique knowledge that Western science may not have uncovered. TCC appreciates incorporating our traditional knowledge as scientific information to ensure effective fisheries conservation and management.

Title V Sustaining Fisheries Through Healthy Ecosystems and Improved Management—TCC appreciates that Section 503 will create a nation-wide standardized bycatch reporting system while working to close loopholes. If there is not accurate reporting, it is hard to understand the true

impact that bycatch has on our fisheries. We need to ensure that we are not incentivizing quick profits over the long-term sustainability of salmon.

Conclusion

Tanana Chiefs Conference supports the SAFFA and appreciates all the work that went into its drafting. This bill is the product of a long process of stakeholder engagement by Chairman Huffman and the bill reflects those diverse voices. The SAFFA represents the first time that tribal voices have been meaningfully included in the MSA, and finally acknowledges that what happens in the oceans impacts the inland fisheries.

TCC urges the Committee to take up and pass the SAFFA. Our tribes cannot wait any longer for the tools and resources that the SAFFA contains to continue our fight to save salmon. I thank you all for your time and attention to this most urgent matter.

Guam Fishermen's Cooperative Association

November 28, 2021

Hon. Jared Huffman
2nd Congressional District—California
Washington, DC

Re: Public Testimony on HR 4690

Hafa Adai Congressman Huffman:

Buenas yan Saluda. The Guam Fishermen's Cooperative Association, a small Guam based artisanal fishing organization is humbly seeking your support in addressing upcoming changes to the Magnuson-Stevens Fishery Conservation and Management Act. The Act was a bi-partisan effort between Senator Magnuson; Washington-D and Senator Theodore Stevens; Alaska-R both deeply concerned about their fishing communities. The MSA as commonly known has been extremely successful for the last forty-five years and should be allowed to remain to perpetuate the exercise unabetted. The four main goals for the Act are to accomplish the following:

1. Prevent over-fishing
2. Rebuild over-fished stocks
3. Increase long term economic and social benefits
4. Ensure a safe and sustainable supply of seafood

The underlying concept is to prevent our domestic fisheries from collapsing and protect our domestic fishermen from foreign competition. However, such is not the state of our fisheries today. Be mindful that the MSA created the most wonderful management regimes of any regulatory bodies in the US. A very inclusive, transparent, and logical "bottoms up" approach to resource management. To ensure our regional and fishery differences eight (8) regional Fishery Councils were created with the basic premise that each regional areas have different issues and attributes regarding their fisheries and afforded a semblance of localized solutions. In other words, "the one size fits all" is unjustifiable hence unapplicable.

During a course of a year these eight regional bodies meet a couple of times to share experiences, differences, and similar commonalities. Again, no other federal or local body for that matter has demonstrated so much resolve to remedy any issue. The last Reauthorization of MSA was championed by the Late Senator Daniel Inouye over a decade ago. Technically all the kinks were tweaked, and a holistic approached document materialized. The only short coming of the decade old document and its advancement of our Pacific Islander communities was the lack of supporting Congressional appropriations.

Kindly understand our small Pacific Island developing fishing communities are extremely small, scope and effort. The wonderful state of Hawaii has the infrastructure and populace to support a medium scale fishery. Our smaller island communities need the basic infrastructure. Our marinas have shrunken, shoreside amenities non-existent and other needed funding possibilities. MSA provides for these up-grades, yet appropriations not provided. Currently piece-meal funding is

somewhat generously provided by NOAA Fisheries and fines from foreign incursions.

As the saying goes "it is great to be sanctioned to do something wonderful in thought but far best to materialize the thought."

So let us get to the crux of the matter at hand. Our organization was made to understand there is an active issue at hand being proposed by Congressman Jared Huffman; California-D. Congressman Huffman is proposing changes to the MSA language amending certain Native Pacific Island issues which we will address in the next section. These changes are not substantiated and blindsides three major Senate Leaders and two of which are Pillars of Leadership in the Democratic Caucus. As the old saying goes "if it is not broken do not fix it" just appropriate funding for its fruition.

The following are the preposed amendments to MSA and our concerns:

1. Subsistence Fishing:
   a. Proposed is a stringent definition of the term which limits the harvest use to personal or family consumption. This term needed to be broaden not further limited or restricted in qualifications.
   b. Currently the fishing regulation is if one fish is sold this mere act is considered as commercial which subjects fishers to compliances far greater than the value of the harvest.
   c. The preferred subsistence fishing value parameter should not exceed fifty percent of one's annual income. Another term could be applied is an "Expense Fisherman" where the value of the harvest cannot be greater than seventy percent (70%) of the total value of the total harvest.
   d. Lastly, in following the standings of the MSA just simply include an authorization for the individual Councils develop the language to meet subsistence practices and remove, modify, and codify the one fish sold edict.
   e. Again, regional issues are different proving again, one size does not fit all.
2. Staff and Administration:
   a. The Councils by design are an Intendent body therefore its operation and staff should not be part of Federalized system. By design the Council and NOAA Fisheries are collaborators in developing regimes for our fisheries, neither superior to the other with neither able to trump one over the other using federal edicts or mandates.
   b. Notwithstanding the concern for fluid operational objective recommendations may offered, discussed and possibility accepted. The aura of reprisals or reciprocity should not result in fear or retaliation.
   c. Congress should not mandate draconian edicts of an independent creature of their own majestic creation. We truly believe that should the three intelligent Pillars MSA were alive today they will call on these young ins for harsh conversation.
3. Prohibiting Councils from Lobbying:
   a. Lobbying for or against proposed edicts from Presidential Proclamations and EO's. The Council process is a transparent exercise. The Council should be allowed freely provide a unified opinion on any action affecting the performance of their duties as mandated by MSA.
   b. The notion that a Proclamation or EO which affects the various Council jurisdiction should deem as superior Presidential edicts as a reminder Councils are creatures of Congress therefore it is unconscionable for Congress to give credence to anything generated by another branch of government such is quite baffling.
   c. Suggest that the verbiage should be one of encouragement. Understand executive branch leadership changes with the times and yet Congress may not agree with the executive proposal especially when community may or not be successful.
   d. The current politically controlled House should allow for a candid and open discussion raised by the Councils. This is opening pf the proverbial "can of worms". Allow the Councils to express itself properly and openly on all matters pertaining to fisheries; again, as a creature of Congress to ensure checks and accountability is paramount.

4. Voting Members:
   a. The Councils is comprised of many organizations such as:
      i. Council Body. Community leaders and Government Reps.
      ii. Scientifical and Statistical Committee. Top scientist in the world.
      iii. Plan Team. Top fishery biologist regionally
      iv. Advisory Committee. Fishery community leaders.
      v. Various Standing Committees. Experts gathered to address issues.
      vi. In conclusion the total number of participants contributing to a Council meeting and discussion includes recommendations for the Councils to consider or act upon. The transparent meetings include over 150 individuals. What is interesting is that of the myriad of public meetings held by Councils none of the concerned detractors were ever present to observe yet quick to offer criticism.
   b. The expansion of member qualifiers to include non-consumptive users. How would that individual contribute by telling everyone to stop eating fish? Scientist inclusion is already occurring in the form of the SSC. This Body has a larger membership than the Council body. They are highly respected scientist who deal with science and rather let the Council balance the other intricacies of the Councils.
   c. In closing this is another exercise in encroaching on executive privilege dictating to Governors in their duly elected position and further limit their choices while in all the while we are not allowed to question a Presidential EO is quite confusing.
5. At Large Membership to the WPRFMC to ensure some semblance balance:
   a. Somewhat a good thing while some jurisdictions have a larger scale fishery however Island units have more fish species in possible need of management attention.
   b. Managing Fisheries is an enormous task requiring much attention therefore the level of concern could be addressed by each Governor with the degree of seriousness that an "at Large Seat be Acquired.
   c. Therefore, a restrictive criterion may impede sound management regimes due to the issue of equal representation. Congress itself is by design is comprised of members based on population.
   d. Again, as the saying goes "if it is not broken do not fix."
   e. In the military, soldiers with experience lead into battle while the recruit follows. Four of the Greatest Statesmen that served in Congress are the true Leaders.
6. Marine Conservation Plans and sustainable Fisheries Fund Plans:
   a. Marine Conservation Plans are created and vetted by the local government bodies and not a creation of the Council. The Council is provided the opportunity to ensure that there are no conflicts with MSA.
   b. The MCP is a pass-through document expressing the plans and aspirations of the Territories. The US through MSA has recognized the need to encourage the wards a path to self-sufficiency.
   c. The MCP is given proper notice most especially as an Agenda Item for no less than two Council Meetings and available. Again, the MCP is not a creation of the Council.
   d. SFA or SFF is to assist the developing states in this case two territories and a Commonwealth to aspire. This concept has been endorsed by the US and International RFMOs. To institute a quagmire of hoops to realize these aspirations to proceed is unconscionable.
   e. To create jurisdictional boundaries for these small island developing states is not inline with MSA and such an exercise deemed ludicrous.
   f. One should not promote support for small island developing states and with equal breath deny the US Pacific Island unequal treatment.
   g. After 400 years of Colonization, we "**Endeavor to Persevere**".

7. Essential Fish Habitat EFH and the removal of "to the extent tractable" also adding "Adverse Effects of Fishing and Projects":
   a. The removal of this qualifier impacts the Council's ability to operate on a "holistic approach" to proper and effective fisheries management.
   b. Pacific Island communities are too often affected by draconian one size fits all which does not lend to rationalization of the eight regional councils.
   c. Understand for the most part the three Pacific Island Communities affected by these changes will suffer undue consequences. The three Island Units do not operate any shape or form of a commercialize fishery which is subject interpretation. Our fisheries are "Artisanal"
   d. Which is community based and operates from vessels as large as those seen on the TV series "Swamp People" and to be clear no where near the series "Wicked Tuna" except for the Fishing Charter business.
   e. We are a small coastal fishing community. We fish for a day and at rare times for 2 days. Our fish stocks are highly seasonal that last for a few weeks to a couple of months if blessed. The average fisherman generates enough income to fall below the poverty line. Cost to operate a vessel is double the mainland counterparts.
   f. Today's fisherman in our islands continue to strive to maintain Guam's 4000-year-old tradition. Due to the lack of a commercial fishery Guam imports over 96% of its fish dietary needs.
   g. Recognize that without the latitude currently provide our society culture and traditions are booked as a display at the Smithsonian Museum. MSA as currently written should be left alone.
8. Transaction of Business:
   a. The Council has provided public notice for each meeting for every entity within the Council bodies.
   b. The Council has conducted all meeting using "Robert's Rules of Order". No one has ever been discouraged from speaking or addressing the Council during the entire agenda. "Public Comment" is a guaranteed agenda item.
   c. The voting procedure is adaptive as to any voting. A single non-affirmative oral vote requires for a three-part oral voting which are. Yay, nay or abstention. Should the vote cast remain unclear of a request to clarify the votes cast and roll call vote is conducted.
   d. The council's ability to conduct business as necessary should not be an exercise in what is procedural and non-procedural. Understand that every component is deemed ranking of equal importance.
   e. The issue of remote Council Meetings is a disability to say the least. Interaction with Council members especially on major issues impacting their fishery and communities is an essential in the decision-making process. For each action no one knows the true effects of the issue within the Island Unit.
   f. Financial Disclosure on the website is unwarranted and once reviewed by legal should remain personal and private. An intensive review and satisfactory review concerns should be sufficient.
   g. Lastly, while we are all a part of a federally mandated creature of Congress we are comprised of many cultures. We do not condone harassment of any form however a friendly and cordial gesture may be misconstrued. While some may view a handshake as acceptable Islanders may see a simple peck on the cheek or a hug as an exercise of sincerity. I guess all subject to interpretation.

Other sections:

1. Overfishing and By-catch; No fishing by one mean generation.
   a. To change the descriptive word for over-fishing to "depletion" is absurd to say the least. Depletion generally gives rise to the concept that there is no expectation of replenishment it is incumbent on the Council to act long before such occurs. The use of overfishing should continue to stand as management regimes are developed to achieve scientific outcomes and various possibilities.

b. Recognize that each Council has the fiduciary responsibility to establish a path to s recovery of s fishery or fish stock within 10 years while highly funded Agency Programs have yet to realize of any specie of concern recovery in 50 years. Is this an exercise in pragmatism or programmatic perpetuation as it seems certainly not a theoretical exercise.

c. Overfishing is measurable while depletion is subjective. recall that the US Pacific jurisdictions are in the largest water mass in the world. Nearly all the other oceans can occupy equal space combined.

d. We possess the largest number of fish species. We have thousands of times of fish habitat than all oceans combine.

e. We only inhabit less than five percent of these areas.

f. The US has led the world in unnecessary protective measures for many remote Island Areas and has designated Marine Monuments due to confusion between Mid-scale commercial fisheries and industrialize effort.

g. The mere fact that the US domestic fishery based in Hawaii has a catch limit under 4,000 mt and purely provides fresh tuna to the Hawaii residents every year. The unrestricted industrialized Purse Seine vessel can harvest that amount in 4 months.

h. Understand that a whole year's harvest by 130 Hawaii based longline fleet is dwarfed by the catch of a single vessel out of hundreds.

i. Hence, the term depleted lacks any form of logic therefore overfishing must remain in place. The removal of a 10-year rebuilding plan and including "one mean generation" is as draconian as it sounds. The meaning of this terminology is total end fishing and has no consequential bearing on fish stocks, its mortality rate or effort.

j. Essentially it a mean generation is comparable of using a shotgun to kill a fly. The act of removing a whole generation of fishermen is grossly objectional. Fishing is not a business opportunity it is the hopes, aspiration, and traditions for Pacific Islanders.

k. A case in point, a young Hawaiian approached the Council during the hearings for the ending of the permitted bottom fishery in the Northwest Hawaiian Islands and he requested as a native Hawaiian to carry on the tradition and legacy of his Hawaiian father due to the Presidential EO the Council could not assist the young man.

l. The effort to remove a whole generation of fishermen should not realize. Fishermen possess the heart and soul to endure fishing, and such can only be perpetuated and nurtured. To idea of skipping a whole generation should be forgotten. Really a fishing vessel sitting for 30 years as well as a fisher that is not fishery management.

2. National standardized by Catch Reporting:

a. The creation of 8 regional Councils has different By-catch issues and concerns. The Western Pacific fishery has probably the smallest by-catch concerns in the entire US.

b. By-catch is the non-target specie however the species are more of an "incidental catch" and is often landed and consumed. The unwanted species interaction comes basically on ESA and MMPA which are considered interactions and are subject to a myriad of strict compliance.

c. Understand that these two federal mandates and restrictive qualifiers often "shuts down" a fishery, during its evolution to regulate fisheries the exercise was based on mortality and now based on interaction despite any incident of mortality is non-existent.

d. Again, to reiterate the fact that even the WPRFMC has assisted in funding mitigation measures to protect nesting areas and nesting sites throughout the Pacific thus realizing the protection of over 200,000 hatchlings. Further conducted forums and workshop to foster the protection of all turtles except for culturally valued turtles with a vast foraging zone. This work was funded under many funding sources including SFF.

e. At the end of the day, fishery management is working harmonizing with people, cultures, and the resource. Please understand the western Pacific fishery management is one of the finest in the USA perhaps in the world.

f. The only fishery with issues in our region is the Amour head. It was harvested by using bottom trawl nets and was primarily a Russian Fishery. To be clear the fishing grounds was inherited through the "Law

of the Sea" edict. Shortly after its inclusion in the WPRMC jurisdiction a prohibition of Bottom Trawl Gear was promulgated and hence never a concern.

3. Plans for Secretarial Approval
   a. Such Plans require major vetting by the 5 main Council Bodies and too often requires much discussion and revision. However, the Council can for the most part its enormous task even in consultation at every step with NOAA Fisheries.
   b. The difficulty of placing the timeline for a mandate of 180 days is rather fruitless as the Secretarial review and the approval would take no less than two years deeming the Plan as outdated.
   c. Allowing the Council to establish an interim Plan until such time the Secretarial approval achieved perhaps is more prudent.
4. Addressing climate change in fishery management regimes MSY and OY:
   a. Climate change is constantly on the radar of fishery management and has been scientifically analyzed and explained. The oceanic El Nino and La Nina has explained the movement of migratory fish from the eastern Pacific and the western Pacific.
   b. Also factored in the model is non-US fishing effort where our effort is severely overshadowed by foreign fleets.
   c. Riddle me this; the WPRFMC has the most managed Fishery. Addresses interaction with species of concern. Applies mitigation measures for its fishery. Mandates Annual Catch Limits. Forces US domestic vessels to fish only the High Seas. Subjugates a US mid-scale fishery subject to a closure of the High Seas.

Conclusion:

Much more can said and at length should be discussed and foster an in-depth understanding of the fisheries and its intrinsic importance to Pacific Island Communities. MSA has been our community's voice in fostering the perpetuation of our traditions. Indigenous consideration and yet in sections denoting changes erodes those advancements, we have finally received the desired recognition by the previously adopted advances to fall prey to more subjugated regimes.

I guess with a well-managed fisheries apparently micro-management is paramount. Imagine that an environment organization was so deeply concerned of our coral reef stocks that it petitions of an ESA listing. Again, in the Marianas alone there are 15 islands and nearly double in mass underwater seamounts with reef fish habitats. Further only 5 out 15 have a population base cumulatively smaller than LA county. Except for one Island used as an ordinance firing rage all others are basically pristine with little or any human contact. A point in fact is the only contact has been conducted by military, scientific expeditions, and environmental groups all of whom have enjoyed our pristine waters.

Just to clarify the un-necessary concerns brought forth in the few amendments mentioned we would like to state our community-based measures adopted by the Council to protect the Community as well as the fragile environment long before it became fashionable and money maker, they are:

1. Bottom Trawl Prohibition
2. Gill Nets
3. No anchoring by vessels greater than fifty feet on the offshore reefs.
4. No fishing by vessels greater than 50 ft. around Guam and off-shore Banks by 50 miles.
5. Annual Catch Limits

Much more should be said about the disastrous implication raise by the change generated by Congressman Huffman; California-D. Too often it is said and heard that Pacific Island communities and people of color are to be given the utmost consideration. However, recognize that the few afore mentioned amendments readily negate any true effort to assist in developing "Capacity" and our constant challenge to preserver as a conquered people.

The current MSA is not deserving of any changes as it was fine-tuned by time honored Statesmen such as Congressman Young, Senator Inouye, Senator Magnuson, and Senator Stevens. The greatest asset of the Act is that it allowed for Native People representation and a voice in the decision process affecting their

communities. This effort to dismiss the concerns of a people with four thousand years of local knowledge by allowing others beyond our borders to be a member of the fishery council is unconscionable.

I was rather hoping to see more financial assistance for the myriad of feel-good intentions within the current MSA. As small island communities we have the fore sight to discourage any form of industrialized fishing within our EEZ. Prohibition of bottom trawl, no anchoring of vessels greater than fifty feet. A closure zone where no longlining is allowed within fifty miles of the Island. Bottom fishing by vessels greater then fifty feet. In essence we are deeply concerned about our natural resources and rightfully so. Be cognizant that despite all our continued real conservation efforts the one industrialized fishery beyond the Council's control is the Purse Seine fishery and can fish without restraint anywhere in EEZ. Be cognizant that our community can harvest 50 metric tons of hundreds of different species in our best year and a single set of a PS can accomplish that in a day.

I could provide more discussion however I personally feel this voice would just like whisper at a rock concert. Lips moving and not heard. I was deemed a "Lobbyist" as I am duly elected president of Guam Fishermen's Cooperative Association it my fiduciary responsibility to protect their interest and concerns. As it is said in Military Doctrine, I am charged with two major duties: first comply with the Constitution of the United States and morally protect and defend that cannot defend themselves. One would assume that these two human components would permeate through the Halls of Congress in establishing laws adversely affecting Pacific Island Communities and its cultural perseverance. Back to the issue of "lobbying". Kindly recognize that despite being a U.S. Citizen I possess no such unique potential. I have a non-voting Congressman representing our Island. I am unable to cast a vote for the President of the United States yet allowed to militarily protect the rights of the citizens of the 50 states can exercise their rights as citizens. Lastly the obvious fact is that I have never been a "registered lobbyist". Therefore, the notion that anyone from any of the territories is such can only conclude as ludicrous. This ludicrous concept was further advanced by the Congressional Public Sessions we held outside our communities and with those who have contributed to such a negative "New MSRA." and its Draconian mandates.

In conclusion I would like to share the wisdom and the words of another U.S. Senator George F. Hoar (R-MA) during the Treaty of Paris Congressional ratification who stated, "*This Treaty would make us a vulgar, common place empire, controlling subject races and vassal states, in which one class must forever rule and other classes forever obey*." Recognize that only two in Congress found it fitting to oppose such a philosophy of a class structure. Again, the current effort to allegedly improve the MSRA it promotes the opposite and derails the multitude of accomplishments. Aside from alleged questionable expenditures on Native Communities issues not one mention was made of a non-native meeting for environmentalist where hundreds of thousands were spent to bring them to a Native Homeland . . . Hawaii but engaging Native Hawaiians is a over a hundred years of attitude and a never-ending story.

I humbly request that this legislation be shelfed until a culturally sensitive review is conducted. Any adverse impacts should also include the concerns of the Governed. Should you or your staff have any concerns or viable questions please feel free to contact me at the above address. Until then I remain . . .

Co-operatively yours,

MANUEL P. DUENAS II,
President

December 1, 2021

Water, Oceans, and Wildlife Subcommittee
House Natural Resources Committee
1324 Longworth House Office Building
Washington, DC 20515

Dear Chair Jared Huffman and Ranking Member Cliff Bentz:

We write to submit this testimony to the record for the House Natural Resources Subcommittee on Water, Oceans, and Wildlife's hybrid legislative hearing on H.R. 59, H.R. 4690, and H.R. 5770 held on November 16, 2021. As Tribes and Tribal organizations of Western Alaska, the Eastern and Northern Bering Sea, and Interior Alaska, representing over 110 federally recognized Tribes, we submit this testimony in support of the *Sustaining America's Fisheries for the Future Act*, H.R. 4690 as introduced by Representatives Jared Huffman.

We applaud the *Sustaining America's Fisheries for the Future Act*'s (Act) acknowledgment of the importance of subsistence fishing to Indigenous communities in Alaska, and the inclusion of subsistence throughout the Act. The incredibly productive Bering Sea region, including countless species of seabirds, marine mammals, fish, and invertebrates have sustained our Tribal communities for millennia. Our oceans have critical cultural and subsistence value for our coastal communities, and we are committed to protecting them for future generations. As a result of climate change, we face, and will continue to face, unprecedented changes to our region. Our fishery management system must adapt to manage sustainably in the face of climate change. We welcome the provisions of this Act that confront the impacts of climate change and directly address them through fishery management and planning.

Importantly, this Act also remedies the long-standing membership imbalance on the North Pacific Fishery Management Council (NPFMC). It is critical that Tribes are equitably included in the decision-making that will impact our marine resources, ecosystems, and ways of life. This Act ensures that Tribes can meaningfully participate in fisheries management by creating two Tribal voting seats on the NPFMC. We support the bill as written, which would provide for two voting Tribal seats, and then the National Oceanic and Atmospheric Administration can, after notice and comment and Tribal consultation, promulgate regulations further detailing the process for nominating and selecting the Tribal members. We have stewarded the lands and waters in our region since time immemorial and this Act gives Tribes a long overdue seat at the decision-making table.

HR 4690 also takes important steps to address the critical issue of bycatch by removing the qualifier "to the extent practicable" from National Standard 9. While many Indigenous communities throughout our region have had their subsistence and commercial salmon and halibut fisheries completely shut down, bycatch is allowed to continue at high levels in the trawl fisheries offshore. Removing the qualifier "to the extent practicable" from National Standard 9 (Section 503) is a much-needed change, which will reorient the MSA toward the original intent of reducing bycatch. This change is key to the sustainability of our fisheries, and to creating a more just and equitable management system.

Thank you for the opportunity to submit this testimony. As introduced, the *Sustaining America's Fisheries for the Future Act* would create a more just and sustainable fishery management process in the North Pacific and we fully support it.

Sincerely,

Melanie Bahnke,
President
Kawerak, Inc.

Vivian Korthuis,
Chief Executive Officer
Association of Village Council Presidents

Amos Philemonoff,
President
Aleut Community of St. Paul Island

PJ Simon,
Chief/Chairman
Tanana Chiefs Conference

Mike Williams Sr.,
Chair
Kuskokwim River Inter-Tribal Fish Commission

Brooke Woods,
Chairwoman
Yukon River Inter-Tribal Fish Commission

Mellisa Johnson,
Executive Director
Bering Sea Elders Group

Pacific Seafood Processors Association (PSPA)

November 30, 2021

Hon. Jared Huffman, Chairman
Hon. Don Young, Acting Ranking Member
Subcommittee on Water, Oceans, and Wildlife
Committee on Natural Resources
1324 Longworth House Office Building
Washington, DC 20515

Dear Chairman Huffman and Acting Ranking Member Young:

The Pacific Seafood Processors Association (PSPA) represents the shared policy and regulatory interests of commercial seafood processors in Alaska and the Pacific Northwest. Our members support fisheries management efforts that rely upon scientific evidence and uphold sustainability, accountability, safety, stability, and community development, all of which have enabled our region to responsibly produce up to six billion pounds of seafood annually—two-thirds of wild fish production in the United States. Our sector delivers sustainably harvested wild Alaska pollock, cod, salmon, crab, whiting/hake, and other premium seafood products to both global and domestic markets, where consumers increasingly demand responsible fishing practices.

The economic health of our sector, as well as the long-term productivity of our fisheries, depends squarely on the terms and underlying principles of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). PSPA staff and members carefully watched how the Water, Oceans, and Wildlife subcommittee legislative hearing on MSA reauthorization bills unfolded on November 16, 2021. On behalf of our members, I write to express our key concerns with the way MSA discourse is evolving among some lawmakers and concerned stakeholders, as these discussions and proposals—if implemented—would affect the very viability of our nation's commercial fisheries. We urge the subcommittee to proceed with a more informed understanding of how the MSA works and how proposed changes may impact fisheries-dependent stakeholders and communities, putting accurate information and analysis at the core of your discussions and decision making.

Role of Practicability in MSA

Certain provisions in H.R. 4690 would remove the term "to the extent practicable" in fisheries management national standards and fisheries management plan (FMP) requirements, including for incidental catch minimization and essential fish habitat impact minimization. This critical phrase was originally included and retained in the MSA because fisheries managers must account for multiple objectives and variables simultaneously in crafting FMPs customized for each unique fishery. Congress rightly recognized that managers would need to balance the multiple objectives embodied in MSA's ten national standards, and that they would need flexibility and discretion to allow *limited* levels of impact, consistent with other protective laws and safeguards, to ensure the optimal delivery of benefits to harvesters, processors, and communities.

Based on information submitted to the record at this hearing regarding incidental catch minimization, we are concerned that Congress has been misled regarding the facts of how bycatch limits in the North Pacific work. This is troubling on two levels. First, contrary to allegations in the information submitted to the record, bycatch or prohibited species caps are not exceeded in the BSAI or GOA federal fisheries.

Before bycatch caps are reached, NOAA Fisheries closes the fishery.[1] In addition, bycatch of species managed under hard caps has been generally declining over the last decade.[2] Second, it is troubling to think Congress would rely on falsehoods when crafting amendments to the most important fisheries law in the United States.

Currently, the MSA requires managers to minimize an impact "to the extent practicable," meaning managers must minimize it to a degree that is both practical and reasonable, depending on the mix of other factors important to each fishery. This is good policy, and PSPA supports it. If this term is removed from MSA, how would managers know if and when "minimization" is achieved—especially difficult when managing stocks and ecosystems in constant flux? One outcome is that any amount of bycatch reduction, no matter how small, could be construed as minimizing bycatch. Another outcome is that managers would have to minimize impact *absolutely*, meaning bycatch or habitat impact would have to be impossible to reduce further, an idealistic but unrealistic standard. This outcome would have to take primacy over all other considerations embodied in the national standards, or face allegations and lawsuits based on the idea that any incidental catch or habitat impact could be further reduced regardless of ability to conduct fisheries.

Similarly, if the term "to the extent practicable" is removed from the MSA provisions on minimizing "adverse effect" (defined as any reduction in quality or quantity, regardless of degree) on essential fish habitat (EFH), as proposed in H.R. 4690, councils would lose additional discretion to balance multiple objectives in developing FMPs. Managers would have to ensure habitat impact avoidance and absolute minimization, or—if some degree of habitat impact is allowed—risk litigation that could paralyze the FMP process. We have not seen compelling analysis justifying this change, as Councils have may tools to protect habitat and biodiversity, even outside the EFH construct. Under current MSA authority, for example, the North Pacific Council has instituted area-based habitat conservation measures that collectively close more than 65% of federally managed waters to some or all fisheries, in order to conserve habitat, protect marine mammals, and otherwise uphold the ten national standards. Any changes to current council- and science-based habitat conservation processes risk destabilizing progress to date—progress that has secured the support of the fishing industry—and the impacts of such disruption should be fully understood.

While PSPA members share in the widespread desire to further reduce incidental catch and conserve habitat in all fisheries and gear types, lawmakers and their constituents must be aware that absolute minimization of impacts would have far-reaching consequences, many of which would be devastating to fisheries management and dependent communities. The impacts of such drastic changes must be fully analyzed and acknowledged up front, including recognition that—in cases where impacts are actually not caused by fishing but by other change to ecosystems—actions to minimize impact may not have the desired outcome on bycatch species or habitat. Congress should not remove the term "to the extent practicable" from the MSA. Instead, Congress should consider the role of ecosystem science and fisheries surveys in facilitating evidence-based council efforts to further reduce bycatch impacts, and work through the appropriations process to ensure sufficient funding for NOAA Fisheries surveys, science programs, and council support.

Structure and Function of Fisheries Management Councils

Another persistent theme of H.R. 4690 is reform of the eight fishery management councils, in structure and function, in ways that would both undermine and complicate their role as lead fisheries management advisors to NOAA Fisheries regulators. Congressman Huffman's bill, for instance, would centralize the climate research agenda and associated fisheries management council mandates at NOAA Fisheries, and it would force NOAA Fisheries to take over management plans if councils could not meet the impossible new standard of producing FMPs in only 180 days (the current FMP process must navigate NEPA and a host of other laws and

[1] https://www.fisheries.noaa.gov/alaska/commercial-fishing/fisheries-catch-and-landings-reports-alaska. Bycatch limits (which apply to PSC species that by definition are always to be avoided like salmon, halibut, herring, and crab) are hard caps that close groundfish fisheries when reached, or in the case of crab and herring, close large areas. Target species (like sablefish and cod) are targeted by multiple gear types and are managed by allocations, not hard caps. These species, like all groundfish species, are accounted for in full so that an overall allowable biological catch or overfishing limit is not exceeded.

[2] https://www.npfmc.org/wp-content/PDFdocuments/bycatch/bycatchflyer420.pdf. Halibut bycatch in the Bering Sea and Gulf of Alaska is about half of what it was in the 1990s. Bering Sea Chinook salmon bycatch has declined about 89% since the high of 2007 and implementation of hard caps under BSAI Am 91 and Am 110.

regulations, and allow for scientific review and public comment, which exceeds 180 days). Moreover, it would impose unwarranted new requirements on how councils meet and communicate.

While these provisions may simply be rooted in a desire for council and FMP expediency and transparency, we find that the new requirements on council structure and function would be exceedingly onerous, costly, and—above all—far less effective for regionally-based fisheries management. First, in the original MSA and subsequently-enacted amendments, Congress recognized that regional councils best understand and can thus solve management issues specific to the area under its authority. Councils hold primary authority for developing and recommending FMPs, based on the advice of scientific advisors, NOAA regional fisheries science centers, and stakeholder input. All FMP inputs must be specific to the fish, stock complexes, vessel type, gear types, habitats, ecosystems, communities, safety issues, and other variables of the fisheries in question. This decentralization of expertise and awareness of unique, local conditions is the preeminent achievement of the MSA, and it fosters a system of FMPs that have been remarkably effective at nearly eliminating overfishing and sustaining fisheries productivity while also meeting community, safety, and other objectives. If Congress pursues MSA amendments that would replace council actions with top-down, centralized edicts from DC, analyses must occur showing how centralized control would impact the current system. Moreover, Congress must be fully aware of the cost of legislating away locally-led expertise and stakeholder buy-in. The MSA was premised on having regional input drive regional decision-making; changing this premise at all would be a monumental and fundamental change to the MSA.

Second, under current MSA authorities, numerous safeguards are in place to ensure councils follow clear rules regarding communication and conflict of interest. All council proceedings are open to the public, and meetings are increasingly accessible as online services and participation continues to expand. Communications with agencies and lawmakers are closely monitored by counsel, as councils cannot lobby or take positions of support or opposition to Congressional proposals in order to shape outcomes. Additionally, NOAA General Counsel ensures compliance with conflict of interest and disclosure regulations, most recently updated in a September 2020 final rulemaking. The current rules enable councils to have members with the best possible expertise and experience on technical and operational aspects from representatives of the harvesting and processing sectors, while also prohibiting council members from voting on decisions where NOAA has determined a conflict of interest.

Considering all the changes that H.R. 4690 would impose on councils, we urge Congress to heed the input from the councils regarding the impacts of the proposed changes. The cumulative impact of provisions that would effectively sideline, stifle, and silence councils would have disastrous effects on our fisheries management system, and, to date, a compelling case has not been made for such proposed changes.

Climate Resilience and Ecosystem Science under MSA

Significant attention is being devoted to the provisions of H.R. 4690 that would mandate more action on fisheries management challenges driven by climate change. Some of these changes would centralize climate resilience mandates at NOAA, as described above, and some would be woven into other parts of council operation and FMPs (including new mandates for forage fish catch limits). We support the intent of these provisions, as they are consistent with actions long undertaken by the North Pacific Council; however, we question the need for new mandates related to climate considering Councils are already pursuing climate-resilient fisheries under *existing* MSA authority. In fact, doing so is already consistent with the MSA requirement to base FMPs on the best available scientific information, including trends and forecasts of stocks and ecosystems, as data and resources permit.

For example, the North Pacific Council is increasing data utilization, incorporating climate information into stock assessments where possible, and has approved a 5-year plan (Climate Change Taskforce workplan) to evaluate how to change its management system to be more climate resilient. The North Pacific Council has also been supporting significant modeling work at the Alaska Fisheries Science Center (ACLIM 1.0 and 2.0), with the intent of increasing fisheries management resilience to climate impacts. The purposes of this work are to project physical and ecological conditions under levels of climate change and evaluate effectiveness of adaptation actions in fisheries management. This work combines realistic projections of ocean conditions under climate scenarios, alternative harvest strategies in the harvest limit setting process, and climate enhanced biological models that predict climate-driven changes to individual species and food webs. It is intended to

increase its ability to forecast climate-driven distribution of species, tipping points, and thresholds. In addition, NOAA Fisheries has rolled out the Climate and Fisheries Initiative to build operational modeling and a decision support system to provide the information and capacity resource managers and stakeholders need to reduce impacts and increase resilience in their regions. This information support is needed in the face of a changing climate and is the proper role for NOAA.

Any changes to MSA that would centralize or mandate top-down NOAA-led climate resilience management actions would risk adding unnecessary rigidity, bureaucracy, and delay to what should be regionally-led, flexible, and adaptive science-based undertakings. Any impacts from new mandates and burdens would be disruptive, and such costs should be factored into any Congressional review. The most important role for Congress in facilitating climate resilience would be in enacting sufficient funding for councils and NOAA Fisheries, to make sure such efforts led by councils and scientific advisors are well-resourced and producing timely, relevant stock and environmental data.

Conclusion: Do No Harm

Representing Alaska seafood processors that depend on having a sustainable and predictable flow of products from Alaska and the Pacific Northwest, PSPA understands that our councils are now facing unprecedented challenges related to climate and ecosystem change, climate driven and cyclic changes in fish stocks, and other sources of uncertainty. At the same time, PSPA finds that the current fisheries management system is performing as lawmakers intended in the North Pacific, putting science and representative councils at the forefront of sustainable fisheries management. The changes proposed in H.R. 4690 would—on balance—inject unwarranted cost, risk, inefficiencies, and uncertainty into the council- and science-based fisheries management system. While we understand the intent of many provisions, we find that the proposals lack comprehensive analyses and awareness of impacts and consequences, and these shortcomings preclude us from supporting this bill as written. We continue to urge Congress to focus on the appropriations process, as the most effective way to facilitate sustainable fisheries management.

Sincerely,

CHRIS BARROWS,
President

The Marine Fish Conservation Network

November 30, 2021

Hon. Jared Huffman, Chairman
Subcommittee on Water, Oceans, and Wildlife
Committee on Natural Resources
1324 Longworth House Office Building
Washington, DC 20515

Re: Support for the *Sustaining America's Fisheries for the Future Act*, H.R. 4690

Dear Chairman Huffman:

The Marine Fish Conservation Network (Network) appreciates the opportunity to provide our views on the *Sustaining America's Fisheries for the Future Act*, H.R. 4690, for the record. We applaud the approach taken in developing this legislation by convening a nationwide listening tour seeking input from the many stakeholders with an interest in the sustainable management of our oceans and fisheries. The Network appreciates your leadership to ensure healthy oceans and sustainable, productive fisheries now and into the future.

The Magnuson-Stevens Fishery Conservation and Management Act's (MSA) science-based conservation requirements are essential to maintaining and improving the long-term health and productivity of our nation's marine ecosystems, ocean fisheries, and coastal fishing communities. U.S. commercial and recreational fisheries generate $244 billion in sales and support 1.74 million American jobs.

Well-managed, abundant fisheries and successful fishing businesses begin with a strong federal law. The U.S. has taken a leadership role in implementing science-based fisheries management with the MSA, and this federal fisheries law is

working. We are making steady progress in restoring the health of U.S. fisheries due in great part to Congress' leadership during the last two reauthorizations of the MSA.

However, in some cases, the councils' ability to meet their management goals and objectives has proven challenging. In certain regions, some fish populations have been slow to rebound. Infrequent stock assessments, catch data limitations, and bycatch remain problem areas, affecting the productivity and recovery of fisheries in many regions.

Congress, by moving this legislation forward, has the opportunity to continue to build upon the science and conservation advancements of the Magnuson-Stevens Act secured in previous reauthorizations of the Act. The Network supports those improvements in the *Sustaining America's Fisheries for the Future Act* that promote the long-term health of U.S. fisheries, strengthen the wellbeing of fishing communities, and ensure that our oceans and those who rely on them can successfully meet the emerging challenges of the future.

The bill includes several of the Network's policy priorities, which include supporting fishing communities and working waterfronts, enhancing catch accounting and data management, strengthening bycatch provisions, upholding federal statutes that promote ocean conservation and public participation, improving forage species conservation and management, and assessing and mitigating climate change impacts on fisheries. In particular we would like to commend the measures in H.R. 4690 that:

- Address for the first time the effects of climate change on U.S. ocean fisheries by incorporating climate science and adaptation strategies into management decisions.
- Incorporate language from the *Keep America's Waterfronts Working Act* that provides much needed support for our country's working waterfronts by allocating funding and resources to improve coastal infrastructure and confront the growing threats of climate change.
- Recognize the need for accurate, timely, and verified catch data for all major commercial and recreational fisheries and includes measures to modernize data collection methods and utilize electronic technologies to improve catch accounting, particularly in the recreational sector.

The *Sustaining America's Fisheries for the Future Act* is a comprehensive bill that includes critical advancements to marine policy to ensure the ongoing conservation and restoration of U.S. fisheries and oceans. The Network looks forward to working you and Congress to ensure the final bill supports healthy marine ecosystems, vibrant local economies, sustainably-caught seafood, millions of jobs, and abundant recreational opportunities around the country for generations to come.

Thank you again for your leadership on this matter.

ROBERT C. VANDERMARK,
Executive Director

Submissions for the Record by Rep. Dingell

November 15, 2021

Hon. Raúl Grijalva, Chairman
Hon. Bruce Westerman, Ranking Member
Committee on Natural Resources
Washington, DC 20515

Dear Chairman Grijalva and Ranking Member Westerman,

The undersigned 59 scientists seek your support for H.R. 5770, the Forage Fish Conservation Act. We represent a wide variety of areas of expertise, including fisheries biology and management, marine mammal and bird ecology, and social sciences. We understand the crucial role that forage fish species play in marine ecosystems and the U.S. economy, and as such, we know that the U.S. needs to manage forage fish for the larger ecosystem roles they play in the oceans.

Forage fish are small- to medium-sized fish that directly and indirectly feed the entire ocean food web, ultimately fueling the productivity of marine ecosystems. There is an expansive, growing body of research that outlines the importance of these fish as food for recreationally and commercially important species such as tuna, salmon, Alaska pollock, and cod, as well as for seabirds, sharks, dolphins, and other animals that are integral to healthy fisheries and stable ocean ecosystems (Cury et al. 2011; Engelhard et al. 2014; Pikitch et al. 2014, Essington et al. 2015, Worsoe et al. 2018). In addition to the ecological responsibility forage fish provide for the oceans, they also have unique biological characteristics that should be accounted for in fisheries management. For example, forage fish mature early, live short lives, and produce substantial numbers of offspring. Because of these life history characteristics, they generally show significant fluctuations in population size. Shifts in forage fish populations can cause ripple effects through the marine food web. Declines in forage fish populations are often accompanied by marked changes in ecosystem structure, including sharp decreases in the marine bird and mammal populations that depend upon forage fish for food (Cury and Shannon 2004).

Another unique biological characteristic of forage fish species is that they tend to form large schools, making them highly accessible to fishing, particularly as fishing gear and technologies become more efficient (Alder & Pauly 2006; Pikitch et al. 2012; Pikitch 2015). About one-third of wild marine fish caught globally are forage fish and this harvest adds around $16.9 billion to the global economy, from both direct harvest and eco-benefits to predators (Pikitch et al. 2014). The potential for overexploitation of forage fish is high, increasing the potential for multi-species population collapses, after which recovery of the forage fish and species that depend upon them is uncertain (Pikitch et al. 2012; Pikitch 2015).

Despite the unique population dynamics of forage fish, conventional fisheries management does not adequately account for the ocean's expansive ecological dependency on forage fish populations. For example, conventional harvest control rules do not provide solutions for management trade-offs between catches and minimizing population collapse length and harvest strategies designed to maintain stability in catches result in more severe stock collapses (Siple et al. 2018). In contrast, a risk-based management scheme that reduces exploitation rates on forage species results in fewer ecosystem impacts, including population collapses, with little effect on long-term average forage fish catch. (Smith et al. 2011; Essington et al. 2015). Furthermore, ecosystem-based fisheries management (EBFM) approaches introduce and integrate additional management levers for policymakers to achieve non-fishery-stock objectives at lowest costs to the fishing sectors (Sanchirico et al. 2021).

Regional applications of EBFM approaches for forage fish are increasing. In August 2020, the Atlantic States Marine Fisheries Commission (ASMFC) unanimously adopted the first application of quantitative ecological models in management on the U.S. East Coast. As a result of this landmark decision, fishery managers now use ecological reference points (ERPs) to ensure the menhaden population never drops below levels that would put its predators at risk (Chagaris et al. 2020; Drew et al. 2021; Howell et al. 2021; Anstead et al. 2021).

Unfortunately, there remains a gap in forage fish management at the federal level. The country's flagship fisheries law, the Magnuson-Stevens Fishery Conservation and Management Act (MSA), does not include forage fish in its framework despite the large supporting role forage plays in the health of U.S. fisheries.

The Forage Fish Conservation Act would improve federal management of forage fish to the benefit of all Americans and U.S. marine ecosystems alike by:

- Requiring the development of a national, science-based definition of forage fish;
- Limiting the establishment of new forage fish fisheries until there is scientific evidence to support their management and determine the impact the new fishery would have on the ecosystem and other fisheries;
- Requiring that catch limits be set for forage fish in ways that account for predator needs; and,
- Conserving important forage species such as river herrings and shads.

The U.S. has long been a world leader in using science to inform how our fisheries are managed. The Forage Fish Conservation Act will enhance a critical but sometimes overlooked aspect of U.S. fisheries management to the benefit of all. We urge you to enthusiastically and in a bipartisan way support the Forage Fish Conservation Act.

Sincerely,

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Endowed Professor
Ocean Conservation Science
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Stony Brook, NY

Pat Baird, PhD
Doctor
Simon Fraser University
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Submissions for the Record by Rep. Young

Statement for the Record

Seafreeze Ltd.
Meghan Lapp
Fisheries Liaison

November 30, 2021

Re: MSA Reauthorization, H.R. 4690, Committee on Natural Resources: Subcommittee on Water, Oceans and Wildlife

Chairman Huffman, Ranking Member Bentz, and Members of the Subcommittee:

I would like to take the opportunity offer written testimony to the Subcommittee as Members consider H.R. 4690 and deliberate over Magnuson Stevens Act Reauthorization. As a member of our nation's coastal commercial fishing community, I would remind Members that the decisions made by this Subcommittee will directly impact the lives and futures of millions of Americans who make their living due to sustainably and responsibly managed U.S. ocean resources. My community will be on the front lines directly receiving management success or management failure as a result of the policies set by legislative action and subsequently implemented through the Regional Fisheries Management Councils. That importance cannot be understated.

Climate Ready Fisheries: Title I of the bill, "Climate Ready Fisheries", and in particular Section 102, "Promoting Climate Resilience in Fisheries Management", has raised serious concerns from fisheries managers. All Regional Fishery Management Councils have submitted detailed comments about how they are already achieving the goals/intent of this section of the bill through existing management processes and scientific/management partnerships, while noting that the new requirements would create additional and unnecessary workloads which the Councils do not have the ability to fulfill.[1]

The November 4, 2021 Council Coordinating Committee (CCC) letter to Representatives Huffman and Case states: "The CCC believes that some sections of H.R. 4690, as drafted, will increase the workload on the Councils and the agency, create demands for data and analyses that in many cases cannot be supported, could increase the risk of litigation on several important topics, appears to reduce the flexibility and the role of the Councils, and does not appear to authorize sufficient funding to meet its requirements."[2]

This statement alone should create pause and concern for Subcommittee members, as well as a comprehensive and realistic assessment of the bill's requirements. I would strongly recommend that Subcommittee and Committee members read the CCC an RFMC letters in detail. The goal of any legislation should be management success, which the current legislation has largely achieved. Good intentions cannot be equated with good outcomes. While the intent of the legislation may be good, if the outcome in reality results in an inability for the Councils to successfully fulfill legal mandates, the management system will be plagued with unending legal challenges and result in failure to support the fishing communities of America through sustainable management.

Several Councils and the CCC, for example, have noted the bill's requirements to project MSY under probable future conditions is not realistically possible. Similarly, they have noted that the bill's new definition of Habitat Areas of Particular Concern (HAPCs) to include areas that "*may become* important to the health of a managed species"[3] and associated requirement that Councils predict these areas into the future for management is an impossible mandate. According to the CCC, "These are just two of many examples of the bill placing unrealistic demands on the available scientific information."[4] Such provisions would set up U.S. fishery management to

[1] See all RFMC letters on H.R. 4690 here: http://www.fisherycouncils.org/msa-reauthorization.
[2] See CCC Letter to Congressman Huffman on HR4690 at https://static1.squarespace.com/static/56c65ea3f2b77e3a78d3441e/t/6184665bad15664b1e6f0a24/1636066908392/CCC+Letter+to+Huffman-Case+HR4690+Nov2021.pdf.
[3] Emphasis added.
[4] See CCC Letter to Congressman Huffman on HR4690 at https://static1.squarespace.com/static/56c65ea3f2b77e3a78d3441e/t/6184665bad15664b1e6f0a24/1636066908392/CCC+Letter+to+Huffman-Case+HR4690+Nov2021.pdf, p. 2.

fail, which should be neither the intended goal nor the accidental outcome of legislation.

All stakeholders, regardless of sector, have an interest in management success. Creating a broken management system from the outset as a matter of federal governmental policy is not in the best interest of anyone. However, the real impacts of management failure would felt most by coastal fishing communities who will be the collateral damage if these provisions receive Congressional approval.

Secretarial Power: A concerning and recurring theme of the bill seems to be the removal of management authority away from the Regional Fishery Management Councils and toward the Secretary. The CCC highlights this fact on page 3 of its letter: "Several sections of H.R. 4690 could diminish the role of the RFMCs". This is concerning because 1) the Secretary is a political appointee therefore subject to frequent political policy swings/lobbying efforts, 2) the Councils have expertise and knowledge that a political appointed Secretary is unlikely to possess, and 3) direct rule by one individual of the Executive branch is not the best way to govern.

For example, Section 106 "Emerging Fisheries", removes the authority of Councils to request the addition of new fisheries via the 90-day notice and removes the authority of the Council to submit changes to the list of fisheries; it essentially vests control of both of these issues in the Secretary. Section 102, "Promoting Climate Resilience in Fisheries Management", requires the Secretary to conduct climate vulnerability assessments of managed species, and then recommend management measures to the Councils consistent with the Secretary's determination(s), then requires the Councils to publish a prioritization plan within one year to implement management measures consistent with the Secretary's notification/recommendations; this section essentially allows frequent top-down management by the Secretary to direct the focus of the Regional Fishery Management Councils based on "climate vulnerability assessments".

Section 506, "Preparation and Review of Secretarial Plans" requires the Councils to submit an FMP for approval to the Secretary within 180 days of a partial approval or disapproval of a Fishery Management Plan (FMP) for a species requiring conservation and management. If the Council does not comply, the Secretary is required to issue the FMP directly. However, 180 days is not enough time for a Council to prepare an FMP in compliance with the National Environmental Policy Act (NEPA), existing MSA requirements, potential Endangered Species Act requirements, or even the Council public process. Therefore, the result of this section would be that all plans partially approved or disapproved by the Secretary would be then directly written and issued by the Secretary, rather than the Councils. The CCC comments, "Section 504 contains similar language if the Secretary determines that a rebuilding plan is not making adequate progress . . . This would affect the Councils by reducing the regional role in fisheries management that is one of the foundations of the MSA." Another clear example of this same problem is the bill's requirement in Section 508 to add river herring and shad to the list of managed stocks in the Mid Atlantic Fishery Management Council's Mackerel Squid Butterfish FMP and New England Fishery Management Council's Atlantic Herring FMP within 180 days of the passage of the bill. The Mid Atlantic Council has already commented that 180 days would result in the above scenario and is not enough time to satisfy NEPA.

While the Council process may not be perfect, it is better than the alternative. Directly creating legislative provisions where authority will be taken away from the public Council process and transformed into FMP management by the Secretary, a single politically appointed individual, via a non-public process is not good policy. It is not transparent, and it is not likely to experience the scientific or management scrutiny that would result as a result of the Council process.

Council Input on Executive Orders: Section 305, "Council Accountability and Membership", contains language that prohibits Council members/Advisory Panel members/Council employees/Council contractors from using federal funds to attempt to influence executive orders or presidential decrees and would create civil penalties including expulsion from the Council or loss of Council employment for doing so.

Councils are already prohibited from lobbying activities; they can only provide input on an issue when invited to do so by Congress, NOAA, other agencies, etc. However, this language appears to remove the ability of a Regional Fishery Management Council to provide input—whether or not that input is requested—on any Executive Order or Presidential decree regardless of the situation. This is particularly disturbing as the current Administration has announced the America the

Beautiful initiative to conserve 30% of the nation's water by 2030.[5] To prohibit, under penalty of law, the Regional Fishery Management Councils as the managers of our nations marine resources from providing input in this process would be catastrophic. It is also counter-intuitive; prohibiting the inclusion of those with the most expertise in this area from participating in the process would certainly not be productive public policy.

The New England Fishery Management Council raises these concerns and also the provision's potential to encourage frivolous litigation: "This section incorporates current restrictions on lobbying that apply to the Councils. However, it extends the prohibition to attempting to influence certain Presidential actions. This latter addition may inhibit the ability of the Council to provide its perspective on the arguments for or against the Presidential action. In addition, the enforcement mechanism proposed requires the Secretary to investigate any complaint or a potential violation received from any entity. This has the potential to encourage frivolous complaints that will burden the agency."[6]

Forage Fish Provisions: Section 508, "Forage Fish Provisions", requires Councils to maintain "sufficient abundance, diversity, and localized distribution of forage fish populations" along with associated mandates; it also requires the Secretary within 180 days to add river herring and shad to the list of managed stocks in the MAFMC's Mackerel Squid Butterfish FMP and the NEFMC's Herring FMP.

H.R. 4690 has an entire section—Section 105—dedicated to shifting stocks. Climate change and stock shifts are a foundational theme of the entire bill. Yet, Section 508 regarding "forage fish" management mandates that Councils somehow maintain "localized distribution of forage fish populations". Legislation cannot be created that simultaneously mandates certain management action because stocks are shifting and other management action to require localized abundance and localized distribution. It is self-contradictory. Additionally, it is realistically impossible. It is impossible for fishery management to pen fish into certain areas in the open ocean. This provision would create both management failure and an open door for litigation.

Including river herring and shad as stocks in the fishery for the Mackerel, Squid, Butterfish and Herring FMPs would essentially close those targeted fisheries for species that are not only non-targeted but actively avoided and are in a depleted state only due to decades of habitat degradation in rivers due to dams and pollution. The result of adding them particularly to the Mid Atlantic Fishery Management Council's Mackerel, Squid, Butterfish FMP would be that two MSC-certified squid fisheries, leading in global sustainability, could be shut down due to requirements to manage to the lowest common denominator. My home state of Rhode Island, the smallest state in the union, is responsible for more MSC-certified longfin squid landings than all other East Coast states combined, with calamari heralded as our official state appetizer. To lose this fishery for factors related to river herring and shad outside of realistic fishery management control would be devastating.

River herring and shad are depleted not due to fishing pressure but due to land-based habitat destruction. There is no way for Fishery Management Councils to manage road runoff in all the states on the Eastern seaboard, or remove all the dams, or revive water quality or habitat in areas that are now quite literally a metropolis. Over 3800 dams still exist on rivers in the Chesapeake Bay watershed alone; and in watershed areas with 5–10% impervious cover, 50–100% mortality of river herring eggs and larvae occur.[7] Addressing these issues is outside the realm of Regional Fishery Management Councils.

Even so, the Mid Atlantic and New England Councils have implemented management measures focusing on avoidance of these species, and the Atlantic States Marine Fisheries Commission also has an established FMP. The Mid Atlantic Council has deliberated multiple times on potentially adding river herring and shad as stock in their Squid Mackerel Butterfish FMP, which it ultimately decided to abstain from as inappropriate. In its comment letter on this bill, the Council gives detail on why it chose not to do so and provides links to decision documents containing science, deliberations, etc., and other existing management for these stocks.

Per the Mid Atlantic Council, "As a general principle, we believe the Councils should retain the authority to determine species requiring conservation and management through FMPs. Any legislation that directs the Secretary to prepare

[5] See https://www.doi.gov/pressreleases/biden-harris-administration-outlines-america-beautiful-initiative.

[6] See https://static1.squarespace.com/static/56c65ea3f2b77e3a78d3441e/t/615b0c3799fecf78c5fe19fe/1633356856095/211001_NEFMC+to+Reps+Huffman+and+Case+HR+4690.pdf, p. 6.

[7] See http://maps.tnc.org/EROF_ChesapeakeFPP/ and http://www.merrimack.org/web/wp-content/uploads/2012/07/Water-Quality-Impacts-to-River-Herring-and-Other-Fishes.pdf.

or amend fishery management plans (e.g., recent legislation to add shad and river herring as managed species) creates conflicts with current management under other existing authorities."[8] I agree. Not because I support every Council action—far from it—but because there are much more detailed regional, scientific, management and other ongoing comprehensive issues that should go into such decisions than will ever be discussed in depth by this Subcommittee. This is why the existing Magnuson legislation relies on Council-based management to very high legislative standards.

Creating additional blanket "forage fish" measures for all regions does not acknowledge both the differences between regions and the ongoing initiatives already undertaken by the Councils across the country. The Mid Atlantic Fishery Management Council has an established "Ecosystem Approach to Fisheries Management" policy and associated initiatives including consideration of predator needs that has actually been the leading focus of a joint initiative with the European Union's Pelagic Advisory Council.[9] The Mid Atlantic Council has also proactively passed an Unmanaged Forage Omnibus Amendment,[10] the New England Council has enacted an ABC control rule to specifically account for herring's role as forage,[11] and similar actions specific to their regions have been taken by other Regional Fishery Management Councils.

U. S. fisheries are already more extensively managed than U.S. oil and gas extraction and U.S. pharmaceutical and medicine manufacturing, according to a study conducted by George Mason University.[12] Creating additional duplicative or conflicting requirements will not help management or stakeholders to succeed; the effect will be the exact opposite.

Essential Fish Habitat: Section 502, "Essential Fish Habitat Consultations" makes dramatic changes to fishery management requirements regarding Essential Fish Habitat (EFH). Not in the least is to change the current legal threshold requiring Councils to minimize adverse impacts to EFH "to the extent practicable". H.R. 4690 removes the qualifier "to the extent practicable" and inserts a new definition of "adverse effect", defined as "any impact that reduces the quality or quantity of EFH". The new law if adopted would therefore require Councils to essentially minimize all fishing activities, as "any impact" is not qualified by any measure or counterbalanced by context—i.e., if the impacts are minimal, temporary, do not create harm to the stock, etc. By removing "to the extent practicable" all discretion of the Councils is eradicated, and the Councils are mandated to essentially stop fishing activity in EFH areas, which are many and varied in nature.

The New England Fishery Management Council has voiced serious concerns to both Council function and litigation of Council action that would arise from the adoption of such language: "This section would modify the MSA required elements of FMPs to "minimize adverse effects on essential fish habitat." This would remove the current phrase "to the extent practicable." This is a significant change that would change the way measures to minimize adverse effects are evaluated. In the extreme, the only way to minimize adverse effects is to prohibit fishing, or at least prohibit certain gears. Removing the practicability language creates an opportunity to litigate any FMP that allows any adverse effects whatsoever to continue in order to comply with the goals of the MSA and its National Standards. Any plaintiff need only show that some additional measure would further reduce any effects, regardless of whether the measure is practicable or conflicts with one of the National Standards. Similar language would be added for HAPCs, and could have similar impacts"[13]

The Mid Atlantic Fishery Management Council has voiced similar concerns. Additionally, the Council raises the point that removing "to the extent practicable" would place EFH provisions above all other Magnuson mandates, which are varied and have need of balance between them in order for conservation and management to function: "The Council is concerned that this change could essentially require the elimination of any fishing that has, or could have, any impact on EFH . . . removal of the practicability clause could open the door to litigation (or re-litigation) on any

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[8] See https://static1.squarespace.com/static/56c65ea3f2b77e3a78d3441e/t/615628171bf7864459884e00/1633036312180/MAFMC-HR4690_2021-09-30.pdf.

[9] See https://www.mafmc.org/eafm.

[10] See https://www.mafmc.org/actions/unmanaged-forage.

[11] See https://www.nefmc.org/library/amendment-8-2.

[12] See George Mason University Mercatus Center "The McLaughlin-Sherouse List: The 10 Most-Regulated Industries of 2014" at https://www.mercatus.org/publications/regulation/mclaughlin-sherouse-list-10-most-regulated-industries-2014.

[13] See https://static1.squarespace.com/static/56c65ea3f2b77e3a78d3441e/t/615b0c3799fecf78c5fe19fe/1633356856095/211001_NEFMC+to+Reps+Huffman+and+Case+HR+4690.pdf, p. 7.

fishery management action that allows for any degree of adverse impacts to habitat. The Council also notes that the new definition of "Adverse Effect" is quite broad and, in combination with the removal of the practicability clause, would significantly increase the Council's responsibility to restrict fishing activities that have any adverse effect (even temporary) on EFH. The Council believes that the EFH and HAPC provisions in the MSA are vitally important to protecting fish habitat. However, we are concerned that the proposed changes leave little flexibility to balance habitat protection with the other management objectives identified in the MSA, such as the requirements to achieve optimum yield, minimize adverse economic impacts, or consider efficiency in the utilization of fishery resources."[14]

A balance of competing Magnuson requirements is necessary for effective management, and the explicit removal of "to the extent practicable" from the law not only makes this balance impossible but also sends a clear message that the intent of Congress is to prevent fishing in large areas of the ocean. From a stakeholder perspective, this is terrifying. Were members of the Subcommittee to go online to the Mid Atlantic Ocean Data Portal Map and click on the "Essential Fish Habitats" link footnoted below, they would find that every square mile of the Atlantic Ocean from the Canadian line to Cape Hatteras off North Carolina is designated as Essential Fish Habitat for one or more species.[15] As every type of fishing has some kind of impact, however miniscule or temporary, the Councils would be mandated per the proposed language to minimize "any" impact to EFH without consideration for impacts to stakeholders. The result would most likely result in our bankruptcy.

Also contained in Section 502 is a new definition for Habitat Areas of Particular Concern (HAPCs) and associated requirements to designate such areas and avoid adverse effects on such areas. Without balancing requirements with a practicability clause, the impacts of this language would presumably end with the same outcomes as the proposed EFH language. One additional requirement of the HAPC language, however, is to require Councils to predictively identify and manage HAPCs. The new definition would encompass areas that "will be" significantly stressed by human activities due to "anticipated future environmental conditions" or "may become important to the health of the managed species".

Predictive management based on how well a Council can guess future conditions—when many don't have adequate scientific information to fulfill current management needs—is not good public policy. The CCC notes that "This would require Councils to predict the future in a dynamic, highly variable system" and would place "unrealistic demands on the available scientific information."[16] Fisheries management is already difficult enough due to the sheer reality that you are managing a resource that cannot be seen and that is continually moving. Requiring management based on a Council's best attempt to peer into the future will complicate an already difficult job and no doubt create management failures. The New England Fishery Management Council has stated that in practice these HAPC requirements would create "a standard that will be difficult, if not impossible, to apply" but also that the requirements "will make it difficult for fisheries to adapt to climate change."[17] I would hope that the Subcommittee would agree that measures making such adaptation difficult would not be in the best interests of the fishing communities of the United States.

Bycatch Reduction: Section 503, "Reducing Bycatch" follows the lead of Section 502 and amends the MSA's existing National Standard 9 regarding minimization of bycatch by removing "to the extent practicable". This could effectively outlaw most if not all commercial and recreational fisheries, and again removes the Council's ability to balance competing Magnuson mandates. The New England Fishery Management Council has highlighted both the fact that such a change would open the door to "extensive litigation over bycatch measures" and "effectively elevat[e] National Standard 9 to take precedence over all National Standards".[18] The Mid Atlantic Council takes a similar stance and shares previous federal judicial determinations where the federal district Court found that individual MSA National

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[14] See https://static1.squarespace.com/static/56c65ea3f2b77e3a78d3441e/t/615628171bf7864459884e00/1633036312180/MAFMC-HR4690_2021-09-30.pdf, p. 7.

[15] See MARCO Mid Atlantic Ocean Data Portal EFH map at: https://portal.midatlanticocean.org/visualize/#x=-74.54&y=42.13&z=6.000000000000003&logo=true&controls=true&dls%5B%5D=true&dls%5B%5D=0.5&dls%5B%5D=162&basemap=ocean&themes%5Bids%5D%5B%5D=&themes%5Bids%5D%5B%5D=24&tab=data&legends=false&layers=true.

[16] See https://static1.squarespace.com/static/56c65ea3f2b77e3a78d3441e/t/6184665bad15664b1e6f0a24/1636066908392/CCC+Letter+to+Huffman-Case+HR4690+Nov2021.pdf, p. 2.

[17] See https://static1.squarespace.com/static/56c65ea3f2b77e3a78d3441e/t/615b0c3799fecf78c5fe19fe/1633356856095/211001_NEFMC+to+Reps+Huffman+and+Case+HR+4690.pdf, p. 7.

[18] See https://static1.squarespace.com/static/56c65ea3f2b77e3a78d3441e/t/615b0c3799fecf78c5fe19fe/1633356856095/211001_NEFMC+to+Reps+Huffman+and+Case+HR+4690.pdf, p. 8.

Standards cannot be viewed in a vacuum but must be part of a balancing act within management.[19] Removing flexibility is management is never going to result in good fisheries management, or perhaps in this case force "management" to mean no fisheries, commercial or recreational, at all.

Northeast Regional Pilot Research Trawl Survey and Study: Section 405 "Northeast Regional Pilot Research Trawl Survey and Study" would require the Secretary, relevant Councils and the Northeast Area Monitoring and Assessment Program (NEAMAP), to develop a fishing industry-based pilot trawl survey to study and enhance the existing federal vessel survey, and use the NEAMAP survey as a model. I fully support this provision. It would seriously enhance collaborative scientific research in the Northeast region, which has been lacking in this area. This provision has received bipartisan support and is contained in both H.R. 4690 and the Congressman Young H.R. 59 bill.

Atlantic Councils: Section 303, "Atlantic Councils" would create a new seat for the New England Fishery Management Council on the Mid Atlantic Fishery Management Council and vice versa; these individuals would be appointed by the Secretary. I support this concept—currently the two Councils have already appointed liaisons from their respective existing Council members to serve as liaisons between themselves. However, these individuals do not currently possess voting rights on the opposing Council. Granting these liaisons, or such appointees, voting rights seems to be the intent of Section 303, and I would support that intent.

However, the Councils should appoint these individuals from their existing Council members, as currently practiced, and the liaisons simply granted voting rights. The Councils themselves know who has expertise where and in what fisheries, what issues are at hand for discussion, and are best suited to appoint their own liaisons. Giving this ability directly to the Secretary, who would not have this level of knowledge about expertise levels, is more likely to politicize the position(s). Also, there is no need to create entirely new seats. Both the Mid Atlantic and New England Councils have expressed concerns about Council vs Secretarial knowledge related to this type of an appointment where expertise is an essential component of the liaison role.

I would support granting voting rights to liaisons within the existing Council liaison structure/practice. In my opinion, this would be a beneficial development to regional fisheries management. However, I would not support adding new individuals appointed by the Secretary.

Depleted Designation: Section 505, "Depleted Fisheries and Preventing Overfishing" adds a definition of "depleted" to mean a stock that is below its biomass level due to various factors including but not limited to fishing. On face value, this would seem to be a move in the right direction of acknowledging that low stock levels can be attributed to many factors, such as habitat loss, for example, as in the case of river herring and shad discussed above. However, the section also explains that use of the term "depleted" shall be deemed a reference to "overfished" as defined currently in the Act and as found/defined in previous case law. Therefore, in practice, there would be no difference between current law/management and future law/management should this language be adopted.

H.R. 59, the "Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act" bill as proposed by Congressman Young does a better job of addressing the "depleted" term. That bill would replace the term "overfished" with the term "depleted" but also require that the Secretary differentiate between stocks that are depleted due to fishing and stocks that are depleted due to factors other than fishing. Additionally, it would require that the Secretary differentiate if stocks are the target of directed fishing or not. Again, in the example of river herring and shad discussed above, these stocks are not only not a target of directed fishing but are actively avoided and associated with management measures designed to reduce incidental bycatch. Therefore, the difference in both designation and resulting management as well as public perception would be better addressed by the H.R. 59 language.

Conclusion: Overall, H.R. 4690 contains some very concerning language on many issues that would directly negatively impact commercial fishing communities of the United States. Many provisions will force management failure, as noted by the comments from the various Regional Fisheries Management Councils, by requiring more of science as well as the management structure than they can provide. Failed management means direct negative impacts on the lives and businesses of commercial fishing stakeholders, as we are bound to the results of science and management,

[19] See https://static1.squarespace.com/static/56c65ea3f2b77e3a78d3441e/t/615628171bf7864459884e00/1633036312180/MAFMC-HR4690_2021-09-30.pdf, p. 7-8.

whether successful or failed. The goal of legislation should be to manage for success, both in express intent and indirectly in practice.

Also concerning is the continual mention by the Regional Fishery Management Councils of opening doors to extensive litigation that would arise from various provisions of the bill. The goal of legislation should never be to create extensive litigation that will hinder sound and stable administration of the law. I would encourage Subcommittee Members to carefully consider those sections in light of the comments you have received from these bodies.

And finally, certain sections of the bill, including those on EFH, Bycatch and Forage all pose the terrifying potential to shut down healthy and productive fisheries altogether. The goal of the Magnuson Stevens Fishery Conservation and Management Act is not just to conserve; it is also to manage fisheries. These two goals have to be balanced to provide the maximum benefit to the nation. The nation will receive no benefit by shutting down healthy fisheries and essentially eradicating the need for fishery management by placing conservation as the sole goal, whether directly or indirectly, of legislation. That is in essence what these sections would accomplish in practice.

The current version of MSA is primarily working from a stock sustainability standpoint. What is needed now is a complimentary focus on sustaining fishing communities and greater flexibility for managers, not additional or duplicative burdens. I would encourage Subcommittee members to explore and support legislative action that would work toward achieving these ends, such as is contained in many sections of H.R. 59.

Thank you for the opportunity to submit testimony.

Submissions for the Record by Rep. Bentz

November 29, 2021

Hon. Jared Huffman, Chairman
Hon. Cliff Bentz, Ranking Member
Hon. Don Young, Acting Ranking Member
Subcommittee on Water, Oceans, and Wildlife
Committee on Natural Resources
1324 Longworth House Office Building
Washington, DC 20515

COMMENTS RE: H.R. 4690 Sustaining America's Fisheries for the Future Act of 2021

Dear Members of the Subcommittee on Water Oceans and Wildlife:

I am Roy Morioka, former Council Member and Council Chair to the Western Pacific Regional Fishery Management Council. Thank you for this opportunity to comment on H.R. 4690. There are eight regional councils created by the Magnuson Stevens Fishery Conservation and Management Act (MSA) to address the uniqueness of fisheries in each of these regions. **As an overall comment, the one-size fits all should NOT be mandated as has occurred with each reauthorization by amendments to the MSA.**

Title 1: Climate-Ready Fisheries

Broadly, Fishery Councils are the least equipped or funded to anticipate and address climate change impacts when those agencies assigned to singularly focus on this are not in consensus. Councils like all other agencies would be in a "response" and or "react" mode given that varying impacts that climate change can cause to their respective regions. For islands like Hawaii, coastal flooding by sea level rise or changes in ocean currents due to ocean warming could cause dramatic changes to fishery habitats but anticipating where and how these changes and to what extent remedial actions would be needed would be in response to changes on a case-by-case basis. Most importantly, to require changes to the fishery management plans to address impacts to fish stocks, marine ecosystems, etc. will be in response to ever changing conditions is unrealistic.

Section 305(c): Lobbying

Further clarification is needed in this section with regard to the definition of "lobbying". When a legislator approaches the council and seeks information or

invites the council or its members to contact him/her, to share concerns and or issues on a proposed legislation affecting its region, this should NOT be considered lobbying by the council or its members while on a fisheries related meeting in Washington D.C. convened by NOAA/NMFS.

Section 406: Recreational Data Consistency

The collection of "good" recreational data has long been a passion of mine as a Council Member and as a fisherman who believes in science-based sustainable fisheries. I viewed this section as a "punt" as NOAA/NMFS has been criticized by the National Academy of Sciences for years and have yet to produce results. Fishermen and councils have attended several recreational summit meetings to address this effort but nothing of substance ever resulted. Councils and fishermen long pushed for regional autonomy in addressing recreational data collection. I was heartened by Section 202: Subsistence Fishing to define the term "Subsistence Fishing" as we in Hawaii have long advocated to replace the term "Recreational Fishing" with the term "Non-Commercial Fishing" as it provides a broader definition of non-commercial fishing to include subsistence, artisanal, and "traditional" fishing practices.

Each region is unique, and while 49 States have fishing licenses, Hawaii and Puerto Rico do not. However, in Hawaii there are fisheries like the Deep 7 Bottomfish fishery that requires all vessels including "recreational" vessels targeting these Deep 7 species to be specially registered. This is a small fishery but steeped in tradition and customs and is currently managed under the MSA's Annual Catch Limit (ACL). It has been difficult to determine the catch and effort made by the "recreational" fishery for stock assessment purposes since there are no requirements to report their Deep 7 catch while the commercial sector is required to report their catch of Deep 7 species within 7 days of the trip. This requires a unique approach toward gathering the best catch and effort data by the non-commercial sector including the recreational sector by surveying only those individuals who are allowed to participate in the Deep 7 fishery rather than sending mailers to all households in Hawaii. Therefore, it is recommended that the proposed strategic plan to improve timeliness, accuracy and precision afford and allow councils and regional science centers the latitude needed to address unique fisheries as noted above toward obtaining the BEST available science to improve the management of our nation's sustainable fisheries.

Thank you again for this opportunity to provide comments on a few areas included in H.R. 4690.

Sincerely,

ROY N. MORIOKA,
Honolulu, HI

PACIFIC ISLANDS FISHERIES GROUP
KAILUA, HAWAII

November 22, 2021

Hon. Jared Huffman, Chairman
Hon. Cliff Bentz, Ranking Member
Hon. Don Young, Acting Ranking Member
Subcommittee on Water, Oceans, and Wildlife
Committee on Natural Resources
1324 Longworth House Office Building
Washington, DC 20515

Dear Honorable Congressmen:

Thank you for the opportunity to submit written testimony on the Subcommittee's consideration ofH.R. 4690, H.R. 59 and H.R. 5770 which proposes to amend the nation's premier marine fishery law, the Magnuson-Stevens Fishery Conservation and Management Act (MSA).

The MSA remains the cornerstone of effective marine fisheries stewardship in the United States. The law's emphasis on implementing science-based annual catch limits, mandating accountability across sectors, and requiring prompt rebuilding have led to numerous successes and well managed fisheries across the nation.

A great example of this process has been the successful management of Hawaii's bottomfish fishery. This important fishery is rooted in Hawaii's rich diverse ethnic community and supports the thriving tourist-based economy. Bottomfish in Hawaii commands the highest year-round average price per pound as compared to all other commercially landed species. It is highly prized for its cultural value in the islands and is the center piece during celebrations such as New Year's, wedding, birthdays and other special occasions. In 1986 the Western Pacific Fisheries Management Council (Council) established the Bottomfish and Seamount Groundfish Fishery Management Plan in Hawaii. That prohibited certain destructive fishing techniques, including explosives, poisons, bottom trawls and bottom-set gillnets throughout the Pacific island region.

The Council implemented the first limited entry permit system in the Northwestern Hawaiian Islands (NWHI) for finfish in 1988. These rules helped to protect the traditional hook and line fishery and the unique deepslope ecosystem and habitat surrounding the Hawaiian archipelago. In 1999, the Council amended the FMP to create a second NWHI limited entry program in the southern Mau Zone establishing 10 non-transferable permits, annual landing requirements and an allocation of 20% of the permits for the Indigenous Hawaiian communities.

The NWHI made up 75% of Hawaii's most pristine bottomfish grounds where a maximum of 17 limited entry participants (7 Hoomalu Zone and 10 Mau Zone) harvested 50% of Hawaii's total annual bottomfish landings. Unfortunately, the NWHI bottomfish fishery came to an abrupt end in 2010 through the Presidential Proclamation 8031 issued under the authority of the Antiquities Act (16 U.S.C. 431-433) on June 15, 2006 designating the NWHI as a Marine National Monument. The closure of the NWHI fishery further increased reliance on imported foreign fish from.

The MSA has brought much needed resources to collect information and data to better understand and sustain the main Hawaiian island bottomfish fishery for generations. The Pacific Islands Fisheries Group (PIFG) has been working with NOAA Pacific Islands Fisheries Science Center (PIFSC) through Independent Cooperative Fisheries Research project for the past 10 years in the Main Hawaiian Islands. PIFG's fishermen have conducted the annual bottomfish survey throughout the Main Hawaiian Islands (MHI) in close collaboration with PIFSC. In 2020, PIFG successfully completed one of only three NMFS fishery surveys conducted across the Nation due to COVID-19 pandemic restrictions. This new information along with a better understanding of the decades of fishery data collected has led to improved stock assessments and a six fold increase of the MHI bottomfish fishery' s annual catch limit.

As an island community, surrounded by the sea, our highest priority is the continued access to our well-managed sustainable fisheries and the collection of information to ensure our families will enjoy these same resources into the future. Thank you for this opportunity to submit written testimony on the proposed Bills to amend the MSA and your continued support of fisheries in Hawaii and throughout our Nation.

Sincerely,

NEIL KANEMOTO,
PIFG President

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