

Statement of
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to the
House Natural Resources Committee
on the
“Strengthening Fishing Communities & Increasing
Flexibility in Fisheries Management Act”
and
Reauthorization of the
Magnuson-Stevens Fishery Conservation & Management
Act
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Good morning Mr. Chairman and members of the Natural Resources Committee. My name is Zeke Grader and I am the Executive Director for the Pacific Coast Federation of Fishermen’s Associations (PCFFA). I wish to thank the committee for its kind invitation to testify here today.

By way of introduction, I grew up on California’s north coast where my father was a fish processor and I worked in fish processing plants through law school and until I was hired by the PCFFA in 1976.

PCFFA was incorporated the same year as the passage of the Fishery Conservation & Management Act; prior to that, a number of PCFFA’s 14 member organizations supported establishment of a “200 mile fisheries act.” That campaign, as you know, culminated in the passage and signing of HR 200 in 1976, creating a 200-mile fishery conservation zone and establishing the eight regional fishery management councils to develop management measures within these newly established federal waters. PCFFA, thus, has considerable experience with the law and this upcoming reauthorization of the MSFCMA will be the fourth now that PCFFA and I have participated in.

In addition to my position with PCFFA, I also serve as Executive Director for PCFFA’s sister organization, the Institute for Fisheries Resources (IFR), a 501(c)(3) non-profit engaged in research, outreach and education on behalf of working men and women in the commercial fishing fleet. I should also add that I am the vice-chairman of the Golden Gate Salmon Association, a member of the executive committee of the Marine Fish Conservation Network and am currently working with the Pew Charitable Trusts, principally on funding issues related to our fisheries. My testimony here today, however, is on behalf of the PCFFA and no other organization.

I have attached two PCFFA columns from *The Fishermen's News*, one from last year and one from this month, of our ideas on the upcoming reauthorization of the Magnuson-Stevens Act (MSA), including in the February some thoughts on the Natural Resource Committee's draft legislation, the "Strengthening Fishing Communities & Increasing Flexibility in Fisheries Management Act"

Some Context

To provide the committee the rationale behind our position, it is useful to review PCFFA's involvement in the past three reauthorizations. In the 1980's reauthorization, PCFFA, based on its experience with salmon and the Pacific Fishery Management Council, worked to include fishery habitat language in the FCMA, where the impacts of habitat degradation on Pacific salmon stocks was being largely ignored by the Pacific Council. PCFFA also worked to get report language on the need for a commercial salmon fisherman representative on that council. The most regulated fishery under the Pacific Council at that time, commercial salmon trollers were treated as poor stepchildren by the Pacific Council and National Marine Fisheries Service until passage of that first reauthorization.

The Pacific Council and NMFS aggressively regulated the ocean salmon fishery from the beginning, heeding the FCMA's prohibition on overfishing. That was not the case with other fisheries, however, particularly mixed stock fisheries. By the 1990's it was becoming evident that some stocks were being overfished, such as some of the groundfish complex. In the 1995-96 reauthorization, PCFFA, as a commercial fishing member of the Marine Fish Conservation Network, a broad coalition of organizations working for sustainable fisheries, supported language aimed at ending overfishing. We recognized that overfishing was not in the best long term economic interest of the fleet and had to be ended if we hoped to have robust fisheries again.

In 2006, PCFFA supported further amendments to the Magnuson-Stevens Act -- beyond the explicit language to end overfishing -- requiring strict stock rebuilding plans and adherence by the council's to the fishery science. Based on the past two years' status of U.S. fishing stocks reports, the 1996 and 2006 amendments to the MSA -- on overfishing, stock rebuilding, and adherence to science - are working.

We also recognized the problems with much of our fishery science; it sometimes did not cover the total range of a stock, in other instances the stock assessments were too infrequent and not accurately reflecting the condition of the current population, and sometimes those doing the stock assessments simply didn't know how to fish to be able to accurately assess fish stock abundance. The problem we saw, that still exists today, is not with the MSA, but that there never have been sufficient resources appropriated for the research and stock assessments needed to sustainably manage our fisheries.

In recognition of the problem of funds for fishery science, PCFFA in its August 2003 *The Fishermen's News* column (<http://www.pcffa.org/fn-aug03.htm>) called for establishment of a national fisheries trust fund, with its own financial support source(s) and outside of the annual congressional appropriations process, to pay for fishery science, as well as other fishery needs,

including development of more selective fishing gear, disaster relief, even underwriting a catch insurance program. In the 2006 reauthorization, language by Senators Stevens and Boxer to establish a fishery trust fund was incorporated in the reauthorization bill. Identifying a financial source, or sources, to provide the support needed for the fund, however, was left until another day. And, it is establishing a stable and ample funding source for fishery science and other fishery needs is what is really needed now, not weakening the existing MSA.

Some Thoughts on the “Strengthening Fishing Communities & Increasing Flexibility in Fisheries Management Act”

Given the history PCFFA has with the Magnuson-Stevens Act, we have the following recommendations regarding provisions of the draft “Strengthening Fishing Communities & Increasing Flexibility in Fisheries Management Act”:

“Flexibility,” Overfishing, and Rebuilding Periods. PCFFA is not insensitive to the plight of fishermen in other parts of the nation, particularly New England. We have felt the pain. Our members have gone through highly restricted seasons, when stocks were down - and through no fault of our own. In the early 1990’s we were forced to seek disaster relief, as a result of the impacts of a multi-year drought on salmon stocks. In this century our salmon fisheries were all but closed for a two-year period in 2004-2005 because of federal water policy impacts on salmon in the Klamath Basin. Our salmon fishery was totally closed in 2008-2009 due to impacts from earlier state and federal water operations in the Sacramento-San Joaquin Delta estuary that decimated juvenile salmon populations.

The problem is, we don’t see what will be gained by continuing to fish down stocks or put-off rebuilding – which is exactly what would happen under the “flexibility” that is being proposed by some fishing groups and incorporated in the draft bill. What is to be gained by overfishing for an additional 5 or 7 years? It simply puts off the day of reckoning, with the fleet trying to survive in the short term on depleted stocks when it could be thriving in the long term fishing on rebuilt stocks.

In fact, the MSA already has a great deal of flexibility in how long those plans should be. As you know, the law’s 10-year target for rebuilding can be exceeded due to the biology of the species, other environmental conditions or if the stock is managed under an international agreement. In addition, the Councils have amended a rebuilding plan when new scientific information indicates conditions have changed. The existing flexibility in the law is clear when you consider that more than half of the current rebuilding plans (23 of 43) are longer than 10 years.

For example, the rebuilding time for ocean perch off the Pacific coast was recently extended for an additional 3 years based on a new stock assessment. Other stocks, like cowcod, have had their rebuilding times modified based on updated scientific information, and have rebuilding timelines that far exceed the 10-year limit- in the case of cowcod the rebuilding period is 67 years.

There is significant flexibility in the MSA, and we need to use the Pacific as an example of how the existing flexibility can produce results in rebuilding and advance sustainable fisheries and coastal communities.

The better answer it would seem would be to provide some form of interim financial help to the affected fleets, allowing stocks to rebuild, while working to improve our fishery science to know when to allow higher catch levels and/or to develop more selective fishing practices, where possible, to allow targeting on abundant species while avoiding those still undergoing rebuilding.

We urge the committee, therefore, not to change the existing law regarding overfishing and stock rebuilding.

National Environmental Policy Act (NEPA) Compliance. PCFFA recognizes that many of the regional councils would like to do away with the NEPA requirements for fishery management plans and amendments. NEPA, however, requires a full analysis of an agency action and for a range of options to be considered. These two provisions of NEPA are very important for our fishermen and fishing communities. Considering the councils do not always act in the best interests of fish stocks, fishermen or fishing communities, we think it would be a very bad idea to do away with NEPA compliance and we strongly oppose any reauthorization language to weaken or do away with NEPA compliance by the regional councils.

Delegating Endangered Species Act (ESA) Authority to the Regional Fishery Councils. PCFFA, probably more than any other commercial fishing organization in the nation, has worked extensively with the ESA, since the first salmon runs were proposed for listing in 1985. The ESA has prevented the extinction of the unique Sacramento winter-run chinook salmon, and may have prevented the extinction of subpopulations of species of other salmon runs and certainly stopped the extirpation of salmon from numerous watersheds. The ESA works when it's given a chance, particularly where there is agency resolve and there are the resources necessary – personnel and funding – to do the job.

Handing over authority for protecting and recovering ESA-listed fish to the regional councils is a bad idea. Trying to superimpose the MSA process over the needs of ESA-listed species would be disastrous. Moreover, the regional councils are already strapped under their existing workloads. They have neither the resources, nor the expertise, to carry-out ESA responsibility for protecting and recovering listed fish species. If Congress is concerned with the implementation of the ESA and its successes, then it should provide the responsible agencies the resources they need to carry out their charge and leave them alone thereafter.

Changing the term from “Overfished” to “Depleted.” PCFFA, in its salmon experience, has long argued against the broad categorization of every depleted fish stock being defined as “overfished.” We support, therefore, the proposal in the draft to change the term. This would more accurately describe the condition of many salmon stocks, some of which have had no fishing on them in nearly two decades. Also considering the progress being made in ending overfishing, while looking at numerous threats now and in the future to fish stocks from non-fishing impacts, a better term than “overfishing” is needed to describe stocks that are depleted. This is not to say, however, that a change in terminology should be used to allow overfishing. A

strict adherence to the existing law to stop and prevent overfishing remains essential.

Referendums on New Catch Share Programs. PCFFA supports the draft’s language to require a referendum on any new catch share program, but we cannot support an exemption from this requirement for the Pacific and North Pacific. The referendum requirement must apply to all the nation’s fisheries, not just those along the Atlantic seaboard and in the Gulf of Mexico. Fishing men and women on the West Coast also deserve a vote on their fisheries.

Strengthening Fishing Communities. PCFFA was heartened by part of the title in the committee’s draft reauthorization bill. We were disappointed, however, to find little of substance in the draft that will actually strengthen fishing communities. Based on our experience, the best way now to strengthen our nation’s fishing communities is to ensure they have access over the long-term to rebuilt and abundant fish stocks and the financial resources available to carry out the science and other needs essential for sustainable fisheries.

The Changes Needed to the Magnuson-Stevens Act

Investment in Fisheries. In the 2006 reauthorization language was adopted creating a national fishery trust fund. In this reauthorization Congress needs to now identify a financial source or sources for such a fund and spell out how the fund would be operated and the purposes for which monies from the fund may be used. Some years ago, PCFFA crafted a discussion draft for a national fishery trust fund, including a revenue source and uses for monies deposited into the fund. If it is useful, we will provide that to the committee for the purposes of starting the discussion. Moreover, the committee may want to revisit the legislation proposed in 2012 to use Saltonsall-Kennedy Act monies to support vital fisheries science.

Protecting Fishing Communities. In the 2006 reauthorization, Congress provided in the Limited Access Privilege Program (LAPPs) provisions of the act for the creation of community fishing associations (CFAs) to receive initial quota allocation and hold quota on behalf of a fishing community however that was defined. This language was extremely important, since NOAA/NMFS promoted individual fishing quotas (IFQs) and other forms of catch shares, to ensure fishing communities continued to have access to those fishery resources they traditionally relied up to support their fleets and economies. Moreover, CFAs are a means for avoiding “stranded assets” for fish processors – a common complaint when quota is issued to individual fishermen or boat owners – without the need for issuing quota to processors directly raising anti-trust concerns, among others. CFAs may prove important, as well, for protecting our fishing communities, if provisions in catch share fisheries, such as restricting quota ownership to U.S. citizens or limiting quota accumulation by a single entity, are struck down by current or future U.S. trade agreements, such as the Trans-Pacific Partnership now being negotiated.

While NOAA/NMFS and many of the council’s continue to push IFQ or catch share management, nothing has been done since that last reauthorization to fully define what constitutes a CFA or their operation. As a result, we have community groups here on the West Coast that have formed or are forming what they believe would constitute a CFA, but are left in limbo due to NOAA/NMFS and council action to put over work on CFA development. Indeed, the Pacific Council considers CFAs a “trailing action” in its implementation of its trawl

groundfish IFQ scheme. That is outrageous. What they are in essence doing is circumventing Congress by issuing all of the quota to individuals leaving nothing for CFAs. Congress needs to set forth standards for CFAs and implement a moratorium on any new IFQ or catch share programs until such time as CFA language is fully developed in regulation and CFAs are formed to accept and hold quota.

Ecosystem Services. PCFFA has argued since the first reauthorization of the FCMA for consideration of habitat impacts on fish abundance and the need for habitat protection. Our organization has also recognized predator-prey relationships and the importance of forage fish considerations in fish management when it initiated in California successful legislation to ban the harvest of krill (at the base of the ocean food chain) and the catch of white sharks (an apex predator in the ocean food chain). In the succeeding reauthorizations Congress has added language for the identification and protection of essential fish habitat and development of ecosystem based fishery management plans. What we ask in this reauthorization round is that the discussion on ecosystem fishery management continue, including consideration of small pelagic fish that are an important food source for many of our nation's major commercial and recreational fish stocks.

Addressing Non-Fishing Impacts. Finally, given the actions taken by other agencies that can affect the health of fish stocks managed by a regional fishery council, the councils need to do more than simply regulate fishermen, if we hope to successfully conserve many of our nation's fish stocks. The regional councils cannot sit by quietly when some other agency acts in a way that damages the very fish stocks a regional fishery council is charged with managing. To that end, PCFFA believes it important that in this reauthorization round of the MSA, Congress charge the regional councils with an affirmative duty to notify, when they become aware of, any agency whose actions or planned actions will adversely affect the health of a fish stock that council is charged with managing. Further, the regional councils should be given the duty to consult with another agency whose action is or may affect a fish stock or stocks and to recommend measures to either prevent damage to the fish or mitigate for any damage. Giving the regional councils this charge could help prevent non-fishing related damage to fish stocks in the future.

Conclusion

Mr. Chairman that concludes my remarks here this morning. I'd be pleased to answer any questions you or committee members may have. Thank you again for this opportunity to testify.