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Larry Collins  
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Lorne Edwards  
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Lori French  
*Treasurer*



Michael Conroy  
*Executive Director*  
Glen H. Spain  
*Northwest Regional Director*  
Vivian Helliwell  
*Watershed Conservation Director*  
***In Memoriam:***  
Nathaniel S. Bingham  
Harold C. Christensen  
W.F. "Zeke" Grader, Jr.

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November 17, 2020

Congressman Raul Grijalva  
Chair, Committee on Natural Resources  
1324 Longworth House Office Building  
Washington, DC 20515

Congressman Rob Bishop  
Ranking Member, Committee on Natural Resources  
1329 Longworth House Office Building  
Washington, DC 20515

RE: Statement for the record: Full Committee hearing entitled 'Ocean Climate Action: Solutions to the Climate Crisis'

Dear Chair Grijalva and Ranking Member Bishop,

I write on behalf of the Pacific Coast Federation of Fishermen's Associations (PCFFA) to provide a statement for the hearing record on H.R.8632, the Ocean-based Climate Solutions Act. For over 40 years, PCFFA has defended the rights of commercial fishermen on the West Coast to access sustainably harvested public fisheries resources for the benefit of the American people. Established the same year that the Magnuson-Stevens Fisheries Conservation and Management Act was passed, we've worked to engage in federal fisheries management policy in its current form for as long as it has existed.

While we recognize that there are positive provisions within H.R.8632, when taken as a whole we cannot support this legislation due to the significant deleterious impacts it would portend to the commercial fishing communities of California and the nation. The majority of our concerns pertain to language contained in Titles 2, 3, and 8.

It is clear that significant changes to this legislation would be required in order to prevent serious impacts to small-scale fishermen and protect the nation's access to its sustainable commercial fisheries resources. The commercial fishing industry is united in this regard; there is no organization representing commercial fishermen that agrees with the approach to ocean governance and climate response taken in Title II of this bill. While the bill would have clearly benefited from collaborative engagement and drafting assistance from our and other conservation-focused commercial fishing organizations, we stand by willing to be of assistance as you work to improve it.

In addition, we are concerned by the disjointed nature of the legislation generally. The bill does not take a holistic approach to ocean governance; rather, the titles fail to 'speak to each other',

creating disparate goals and policies that are likely to conflict and add confusion in an already crowded and increasingly active area of resource governance. In many sections it replaces transparent public processes with opaque, discretionary actions on the part of federal agencies, circumventing long-established approaches to ocean governance. While the provisions of Title II can be included in this category, nowhere do they present a greater challenge to transparent processes, and the fishing industry in particular, than in Section 802(j), unilateral ‘technical control measures’ to restrict fishing activity that would circumvent long-established public processes under the MMPA and ESA, including Section 7 consultations and Take Reduction Teams. The language contained in this subsection poses extreme challenges to the fishing industry, which could be subject to severe arbitrary and capricious restrictions enabled without scientific or economic assessment. It should be removed.

The group that stands to lose the most from H.R.8632 is, by far, small scale commercial fishermen and women, but the ocean ecosystems that fishermen rely on for their livelihoods, at least those remaining to them to operate in, may lose as well. This is driven primarily by the endorsement of massive industrialization of the ocean, particularly coastal waters and the continental shelf. Offshore renewable energy generation at the scale already envisioned by the Trump Administration, via massive lease sales off the East Coast worth hundreds of millions of dollars, would be augmented by H.R.8632 to the tune of hundreds to possibly thousands of additional square miles of US waters by the end of the decade.

This massive industrial buildout, a boon to the same foreign and domestic energy companies responsible for a majority of carbon emissions that are causing the climate crisis, would come at the expense of commercial fishermen, who would be precluded in the vast majority of cases from operating within wind energy areas. No utility-scale wind energy facilities have yet been installed in US waters, precluding any *a priori* scientific assessments of their impacts. In addition, the bill would facilitate the ‘donation’ of funds from offshore wind companies to the Bureau of Ocean Energy Management, effectively placing the industry in a self-regulating position and creating a massive conflict of interest. A far more precautionary and transparent approach to ocean renewable energy development is warranted, and H.R.8632 should be amended to include it.

Despite the aforementioned shortcomings, the sections of the bill that are most appealing to the fishing industry are contained in Title IV. Clearly, there will be some segments of the industry who will more directly benefit than others. We agree with the statement included in Section 401(1) “American wild-caught seafood is integral to the nation’s food supply and to American food security.” This was shown to be particularly true during Covid-19 when U.S. fishermen and women continued to provide Americans a healthy, sustainable, and well-managed, source of protein when beef, poultry, and pork processing plants shuttered.

Section 401 also encourages executive agencies, when purchasing seafood, to “buy local American-caught or American-harvested and American-processed seafood products from fisheries that are not overfished or experiencing overfishing in order to reduce the greenhouse gas emissions associated with the supply chain of seafood products”. It is interesting that this section speaks to the benefits of U.S. harvested and processed seafood, when other Titles in the Act would hinder industry’s ability to reap these benefits in an optimal way.

Section 408 contains beneficial provisions that ‘add teeth’ to Essential Fish Habitat (EFH) and Habitat Areas of Particular Concern (HAPC) designations and associated consultations by increasing the thresholds for other agencies to cause damage to HAPC and EFH, and establishing a ‘avoid, minimize, mitigate’ approach to EFH. It is worth noting that this section, if implemented, would likely have the same effect of prohibiting or minimizing destructive activities within much (if not most) of the US EEZ while ensuring that the fishery management councils play a central role in ocean conservation.

There are clearly some other provisions within Title IV the fishing industry can get behind. However, when these provisions are read in conjunction with the other Titles, it is difficult to reconcile.

Incorporating climate change into fisheries management will be challenging; and will likely result in highly precautionary approaches. Hopefully, data gaps can be identified, and science prioritized to address the most concerning data gaps first. The inclusion of impacts to wild-capture fisheries and economic impacts to commercial fishing in the restorative aquaculture section is refreshing; and could be utilized in other situations as well.

Climate solutions, however, cannot come at the cost of damaging our hard-won participatory governance structures in the ocean. In much of the world, protections on land and in the oceans are insufficient to stem the tide of biodiversity and habitat loss, particularly in terrestrial systems and in those nations and areas with poor governance or a lack of institutional or legal imperatives for conservation.

The approach to Marine Protected Areas embraced in the 30x30 provisions of Title II comprise a moratorium on fishing in nearly a third of the ocean waters of the US. There is no need for such a moratorium. Although US marine fisheries are an extractive use of ocean resources, they are a renewable and sustainably managed resource. The US has recovered more stocks and ended overfishing in more fisheries than ever before, and improvements are made every year. Ecosystem-based fisheries management, which looks beyond management of single species and focuses on broader ecosystem considerations, is embedded in our fishery management programs and policies. Our fisheries management system should be celebrated and placed in a central role when we look to solve climate issues, not marginalized.

When put to task, our country’s world-leading fishery management system is capable of and compatible with achieving habitat conservation goals for the protection of biodiversity at any meaningful spatial scale. Biodiversity protection in US fisheries is achieved through strong and robust legal and governance processes. The Fishery Management Councils established under the Magnuson-Stevens Act (MSA), institutions you have worked to promote, support, and defend for years, are required to use science-based approaches that protect ocean habitat in a myriad of meaningful ways, while requiring sustainability of fisheries and a participatory governance process. And social science demonstrates that conservation goals and outcomes are enhanced when stakeholders are provided an opportunity to participate in ocean governance.

Biodiversity conservation goals with respect to fisheries impacts to ocean habitat can and should be met using the well-established and legally binding regulatory processes of the MSA. The protection of physical habitat on the ocean floor can be achieved under the MSA while

**STEWARDS OF THE FISHERIES**

preserving access to non-destructive, sustainable commercial and recreational fishing activities on mobile stocks in the water column. Tens of thousands of square miles of US ocean habitat already enjoys such sustainable protections.

In order to conform to the fundamental fishery management principles we have been using and fine-tuning for over four decades, Title II should be amended in the following ways:

- The exclusion of ‘all commercial extractive...’ use in areas designated under a 30x30 framework is inconsistent with decades of fisheries management precedent and also represents an unwarranted bifurcation of commercial and recreational fisheries.
- The bill must be amended to appropriately and explicitly define ‘protect’ to establish clarity and purpose; the use of ‘enduring measures’ to require permanent demarcations and purposefully exclude the sole mechanism for implementing habitat protections by Fishery Management Councils is unacceptable.
- The bill should establish goals for ocean protection that are compatible with the MSA and include as a baseline the areas protected under its provisions as well as the gear types that are permitted in protected areas.
- The bill should ensure and require a meaningful role for Fishery Management Councils in the design and achievement of climate-related goals in the ocean, including and beyond 30x30.

Incorporating these simple and sensible approaches into developing legislation will ensure that our ocean policy discourse is compatible with the MSA and our robust fishery management institutions. It will also ensure that proposals do not alienate or exclude fishery stakeholders and dependent coastal communities, whose support is critical to the fishery conservation mission we all endorse.

Thank you for considering the fishing industry’s perspective as you continue to develop ocean legislation for the remainder of this Congress, and in the next. We look forward to meaningfully contributing our perspective during the legislative development process.

Sincerely,

A handwritten signature in black ink, appearing to read 'MK/8'.

Mike Conroy  
Executive Director