

November 28, 2021

Honorable Jared Huffman
2nd Congressional District
California
Washington, DC

Public Testimony on HR4690

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 unabated. 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 two 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 range 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 foresight 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 than 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 shelved 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 or at 671-727-5440. Until then I remain

Co-operatively yours,

Manuel P. Duenas II
President