H.R. 1437, H.R. 1792, H.R. 2950, H.R. 2982, H.R. 4051, H.R. 4094, H.R. 4587, AND H.R. 4596

LEGISLATIVE HEARING

BEFORE THE

SUBCOMMITTEE ON WATER, WILDLIFE AND FISHERIES

OF THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

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Thursday, July 27, 2023
U.S. House of Representatives
Subcommittee on Water, Wildlife and Fisheries
Committee on Natural Resources
Washington, DC

The Subcommittee met, pursuant to notice, at 10:16 a.m., in Room 1334, Longworth House Office Building, Hon. Cliff Bentz [Chairman of the Subcommittee] presiding.

Present: Representatives Bentz, Wittman, Graves, Radewagen, LaMalfa, Carl, Boebert, Luna, Hageman; Peltola, Hoyle, Magaziner, Neguse, Porter, and Case.

Also present: Representatives Carter, Lawler, Rose, and Rutherford.

Mr. BENTZ. The Subcommittee on Water, Wildlife and Fisheries will come to order.

Good morning, everyone. I want to welcome Members, witnesses, and our guests in the audience to today's hearing.

Without objection, the Chair is authorized to declare a recess of the Subcommittee at any time.

Under Committee Rule 4(f), any opening statements at the hearing are limited to the Chairman and the Ranking Member. I therefore ask unanimous consent that all other Members' opening statements be made part of the hearing record if they are submitted in accordance with Committee Rule 3(o).

Without objection, so ordered.

I also ask unanimous consent that the gentleman from Utah, Mr. Curtis; the gentleman from Florida, Mr. Rutherford; the gentleman from New York, Mr. Lawler; the gentleman from Tennessee, Mr. Rose; and the gentleman from Georgia, Mr. Carter, be allowed to participate in today's hearing.

Without objection, so ordered.

We are here today to consider eight legislative measures: H.R. 1437, the Black Vulture Relief Act of 2023, sponsored by Representative Rose of Tennessee; H.R. 1792, the South Pacific Tuna Treaty Act of 2023, sponsored by Representative Radewagen of American Samoa; H.R. 2950, Coastal Habitat Conservation Act of 2023, sponsored by Representative Huffman of California; H.R. 2982, the New York-New Jersey Watershed Protection Act, sponsored by Representative Tonko of New York; H.R. 4051, the SHARKED Act, sponsored by Representative Wittman of Virginia; H.R. 4094, the Great Salt Lake Stewardship Act, sponsored by Representative Curtis of Utah; H.R. 4587, the Red Snapper Act, sponsored by Representative Rutherford of Florida; and H.R. 4596, the Western Water Accelerated Revenue Repayment Act, sponsored by Representative Boebert of Colorado.

I now recognize myself for a 5-minute opening statement.

STATEMENT OF THE HON. CLIFF BENTZ, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OREGON

Mr. BENTZ. Today, we are meeting to discuss eight bills that address a variety of regional issues.

Mr. Wittman's legislation, H.R. 4051, creates a task force to address increasing shark depredation.

H.R. 1792, sponsored by Mrs. Radewagen, would implement amendments to the South Pacific Tuna Treaty that were adopted back in 2016. I will note that, as written, the bill will need modifications to meet House protocols.

Mr. Rutherford's legislation, H.R. 4587, prevents NOAA from implementing draconian fishing closures in the South Atlantic until

the South Atlantic Great Red Snapper Count Study is completed and the findings are integrated into the Fisheries Stock Assessment.

Mr. Rose's legislation, H.R. 1437, gives ranchers and cattlemen more options to address the devastating impacts of black vulture predation by allowing them to take a black vulture that is causing death, injury, or destruction to livestock. Black vultures are not endangered, but are protected under the Migratory Bird Treaty Act, which means they cannot be taken without a permit from U.S. Fish and Wildlife.

H.R. 4094, introduced by Mr. Curtis, gives the Department of the Interior more flexibility in addressing issues surrounding the Great Salt Lake and the Salt Lake Basin.

H.R. 4596, sponsored by Mrs. Boebert, authorizes two successful fish recovery programs that provide Endangered Species Act compliance for more than 2,500 Federal and non-Federal water projects, depleting approximately 3.7 million acre-feet per year in the Upper Colorado River and San Juan River basins.

Additionally, we have two bills sponsored by our colleagues across the aisle.

Mr. Huffman's bill would legislatively authorize the program of Fish and Wildlife Service, which was administratively created and has been running since 1984.

Lastly, Mr. Tonko's bill would create a new program specifically for what it defines as the New York-New Jersey Watershed. As written, both of these bills need to be amended to meet House Floor protocols.

With that, I look forward to hearing from our Members and witnesses with us today.

I note that our Subcommittee Ranking Member is ill, and we wish him a full recovery.

I will now introduce our first panel. As is typical with legislative hearings, the bills' sponsors are recognized for 5 minutes each to discuss their bills. With us today are Congressman Rob Wittman; Congresswoman Radewagen, right on time; Congresswoman Lauren Boebert; Congressman Paul Tonko; Congressman John Rutherford; and Congressman John Rose.

I now recognize Mr. Wittman for 5 minutes.

STATEMENT OF THE HON. ROBERT J. WITTMAN, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF VIRGINIA

Mr. WITTMAN. Thank you, Mr. Chairman. I would like to begin by asking unanimous consent to enter into the record the NOAA Fisheries Report, "Atlantic Sharks: 30 Years of Successes and Lessons," and then also the written testimony of Mr. Dewey Hemilright, a commercial fisherman from Wanchese, North Carolina.

Mr. BENTZ. So ordered.

[The information follows:]

Atlantic Sharks: 30 Years of Successes and Lessons

Dive In with NOAA Fisheries
New England/Mid-Atlantic
July 13, 2023, Southeast Audio file

NOAA Fisheries has successfully managed Atlantic highly migratory sharks for 30 years. Learn about some of the challenges of assessing shark stocks and combatting misinformation about sharks.

0:00:00.0 John Sheehan: Sharks inspire strong, even visceral reactions in people. They're beloved, feared, revered and reviled and hold a distinct place in our imaginations and culture.

0:13.4 S2: There is a creature.

0:14.4 S3: This shark, swallow you whole.

0:16.9 S4: To kill, it's a man-eater.

0:17.9 S5: You're gonna need a bigger boat.

0:22.5 JS: By the way, I don't invoke jaws lightly here. The 1975 Spielberg film actually contributed to conditions that led the federal government to create an Atlantic shark management plan in 1993. And in the intervening decades, sharks have grown no less popular or polarizing, in the words of one of my guests.

0:41.5 Karyl Brewster-Geisz: Everybody has a strong opinion about sharks.

0:44.2 JS: And as is often the case, when strong emotions are involved, the conversation about how sharks are handled and managed can itself get pretty muddled. This is Dive In With NOAA Fisheries. I'm John Sheehan, and today we're discussing sharks, specifically Atlantic highly migratory sharks managed by NOAA Fisheries, which has been doing so successfully for 30 years. We'll discuss the challenges to assessing shark stocks and combating the constant misinformation about sharks leading to lasting misconceptions and some of those strong public feelings that I mentioned earlier. My guests are Karyl Brewster-Geisz, branch chief for regulations of the Atlantic HMS Management Division.

0:01:26.9 KB: We manage the shark, swordfish, tuna and bill fish fisheries throughout the Atlantic, from the state of Maine through the Gulf of Mexico to the state of Texas. And we also include the Caribbean.

0:01:39.6 JS: And Dr. Enric Cortés, a senior scientist at the Southeast Fisheries Science Center.

0:01:45.1 Dr. Enric Cortés: My role has been essentially to do shark stock assessments. So I work on the population dynamics, life history issues, etcetera.

0:01:53.9 JS: And what kinds of sharks are we talking about?

0:01:55.9 KB: Oh, all sorts of sharks. Some of our more coastal ranging species such as lemon sharks or black tip sharks. And then you have sharks that go all the way across the ocean, like blue sharks or Shortfin mako. We manage about 40 different species of sharks.

0:02:12.4 JS: Now, before we get to recent history, I think it's helpful to start with a brief look at shark fisheries over the last century or so.

0:02:20.6 DC: Sharks have been caught recreationally in the US since at least the 19th century, if not before. Sharks were not commercially caught in any significance until approximately the 1920s, when this company called the Ocean Leather Company, started catching sharks for their skin to make leather and also collecting some fins. From approximately 1935 to 1950 on the Atlantic Coast, on the east coast of Florida, there was a dedicated shark fishery for liver oil, because that's where Vitamin A was extracted from. But in 1950, vitamin A was synthesized and so there was no longer a need to get it from the liver oil of sharks. So shark fisheries went down considerably. Fast forwarding now to approximately the early 1970s, shark meat consumption in the US started to take off and concomitant with that was the opening of the Asian shark fin market to the US. And then in the mid 1970s there was the release of the book and the movie, Jaws, which led to a big increase in recreational fishing.

0:03:39.1 JS: See, Jaws. And this brings us to more recent decades. Here's Karyl Brewster-Geisz.

0:03:45.7 KB: In the late 1980s, the five fishery management councils along the Atlantic coast were really concerned about the status of sharks and how much

fishing pressure was going on in those species. They figured out they would have a really hard time managing these species because it encompassed the full range of all five councils. So they asked the Secretary of Commerce to manage sharks, and in 1992 the science center produced a stock assessment final report that showed that a number of shark species were over fished. And that triggered a 1993 fishery management plan, which was the first federal fishery management plan for sharks. And that's what we're celebrating.

0:04:35.3 JS: Wow. So because sharks had so much pressure on them, it just needed to have an overarching body specifically devoted to sharks.

0:04:43.0 KB: Specifically devoted to sharks. Yes. A lot of fishermen back then used different gear types than they use now. And for sharks in particular, they would catch the sharks. And at the time they weren't . . . Not all the sharks, they knew how to process well enough to eat the meat. So they would keep the fins and dispose of the carcass. And that's where fining comes from. Because the fins were worth a lot of money. It wouldn't disrupt what else was in the hold? Like the swordfish or the tunas that they caught, 'cause they could just dry the fins out on deck.

0:05:18.9 JS: Yes, and that has been a very controversial practice and has been the subject of a lot of sort of uproar.

0:05:25.9 KB: Yes. Yes, it has. Yes, we banned finning back in that 1993 fishery management plan. So it has not been a problem in the United States essentially since then. We've done a lot since that time to help close any loopholes. Most importantly, in 2008 we actually implemented what we call, fins naturally attached. So all commercial fishermen and recreational fishermen are required to land the sharks with the fins naturally attached to the body, so they can't remove the fins and then staple a whole bunch to this body, which has happened elsewhere. They actually have to keep the fin attached with skin to the shark.

0:06:08.7 JS: Since we're talking about sort of some of these milestones over the last 30 years, what have been some others?

0:06:14.0 KB: There have been huge improvements in terms of the data that's available. So that has improved all of our stock assessments. In 1999, we implemented what we call limited access, which means for the commercial fishery, there's only a limited number of permits. So not anyone can go out and fish commercially for sharks. You need to have a special permit and you need to basically buy a permit from somebody who's leaving before you can enter. In 2008, in addition to requiring fins naturally attached, we also started what we call a shark research fishery. And this is a cooperative fishery where we work with specific fishermen to collect data. And it has been instrumental in all the things we've been doing, including the science, the underlying science we use for the management, along with helping us figure out more about what we should be doing for management. We have had a number of species be either rebuilt or well on their way to rebuilding. So an example of that will be the black tip shark, which back in 1998 we thought was on the way to extinction and now it's fully rebuilt and could withstand a lot more fishing pressure than we allow it at the moment.

0:07:28.6 KB: Other species would be like the sandbar shark, which was historically the major shark species is now under a rebuilding plan and is ahead of the rebuilding time period for that. In addition, we've added some species to our fishery management unit that we did not have in 1993. So an example of that is Smooth Dogfish or Gulf smooth-hounds and all of the smooth-hound complex. We added them to our management unit in 2015.

0:08:00.5 JS: Can we talk about some misconceptions? I think, shark finning is an example of something that I think a lot of people knew about, and maybe aren't aware that it's banned and that it's something that doesn't happen in the United States anymore. What other misconceptions kind of exist?

0:08:15.5 KB: Yes, there are a lot of misconceptions. People go online and they Google sharks and they immediately see all sharks are endangered and that is actually a big problem for us. And the finning issue that you mentioned. So a lot of people tend to group all sharks together as though sharks is just like one big species when it's not. There are hundreds of species of sharks and they are all so different and so diverse, and we do have some species of sharks that for a shark is relatively slow-growing and takes a while to have pups. So an example of that would be the dusky shark. It has been prohibited for over 20 years now, still over-fished still experiencing overfishing, but then you have other shark species that are relatively fast growing for a shark, like the blacktip and it's fully rebuilt now. The idea about finning, there's a couple of misperceptions there. One is, a lot of people tend to be

surprised that we even allow a commercial shark fishery. And then the other one is surprised that commercial shark fishermen are still allowed to land fins. Commercial fishermen actually abhor wasting any fish. They wanna use the whole shark, they don't wanna just land the fins, so they use the meat, they use the skin, they use the teeth. Some parts of the shark are even used medically. So sharks are really good for us overall, not just in the water, but also as a resource to eat.

0:10:05.8 JS: And just to reiterate here, not only has shark finning been illegal in the United States. In late 2022, president Biden signed the Shark Fin Sales Elimination Act. It's part of the National Defense Authorization Act. Under that act, shark fins, except for those of smooth and spiny dogfish, but all others cannot enter into commerce and fishermen are still required to land the fins naturally attached to the shark. You mentioned sort of public surprise at some aspects of shark, such as that there is a commercial shark fishery. How else have you seen the public swing in their perceptions? Because, sharks are . . . They're both beloved and feared and in popular culture sharks are . . . They're iconic and people are very, very interested in them. How have you seen sort of the public's swing of emotions regarding sharks?

0:11:01.3 KB: Yes. Everybody has a strong opinion about sharks and if could ask somebody on the street and they would tell me what they think about sharks and it has swung a lot over the years. So when I first started, primarily people thought of them as dangerous and they were afraid to go in the water. And this was . . . It was still about 20 years after Jaws, and yet Jaws really did have an impact on what people thought about sharks. At the same time, there were still a lot of people who saw sharks as a challenging sport fish, something to go after. And you think of shortfin mako or spinner sharks that actually jump out of the water and spin when they're caught. A lot of people really thought of them either as dangerous or as let's go catch them. Now, a lot of people wanna just save sharks.

0:11:55.8 KB: Sharks are important and they wanna save sharks. And that was virtually unheard of when I started. There seems to be a swing now toward a whole different issue where sharks are becoming, for lack of another word, pests, where recreational and commercial fishermen are constantly fighting against the sharks in order to land other species. So they might be fishing for snapper or grouper or Yellowfin tuna, and before they can get the fish into the boat, the sharks come and eat them. And that's called depredation. Similarly, they might be out there enjoying a nice day recreational fishing, they catch whatever it is they wanna catch, say a snapper or a king mackerel. And then they release that back into the water and a shark eats it. And that's called scavenging. It's similar to the depredation. And so a lot of commercial and recreational fishermen throughout the region, for the entire Atlantic and the Caribbean are really coming to see sharks as pests.

0:13:00.5 JS: What's the management response to that? How do you deal with that?

0:13:03.7 KB: That is what we are still coming to terms with. We are trying to work with a lot of the fishermen. A lot of the scientists have been working with fishermen, trying to get a sense of how you can mitigate that. We're not gonna change the fact that sharks are predators. So we need to really work with the fishermen to come up with a proper response. One of our main concerns is that fishermen will become so upset over this, that they will start intentionally killing the sharks. And that of course, we wanna avoid at all costs. We don't wanna end up back where we were when the fishery management plant started in 1993.

0:13:46.1 JS: A few weeks ago, an example of this issue of shark depredation played out publicly. A fishing crew participating in the Big Rock Blue Marlin Tournament in North Carolina lost out on a three and a half million dollar prize. When it was determined their catch had been mutilated and therefore were disqualified.

0:14:03.8 S8: It would appear that this fish has been bitten by a shark.

0:14:08.7 JS: You can bet that crew has feelings about depredation. Of course, it's also a sign that the management efforts of the last 30 years, efforts to stabilize and protect shark populations are working. Here's Dr. Enric Cortés.

0:14:23.9 DC: It's related to the boom and bust cycle of shark fisheries in my opinion. There is a short period of very intense exploitation, the boom, which is followed by a bust, so a drastic declining catches. We had a really large increase in catches in the mid 1980s to early 1990s, and since then we've had increasingly restricting regulations. So to me, that shows the recovery period. That can explain why we are now seeing a lot of the populations that are increasing and it's manifested by the depredation.

0:15:02.4 JS: Yes. Is over-exploitation still a threat to sharks? And I mean, if not, what are the threats to sharks?

0:15:11.3 DC: Yes. So traditionally and historically fisheries have been the main threat to sharks. One issue with sharks is that even if you control the targeted fisheries, sharks are caught in a large amount of fisheries and gears. So that's what we call bycatch or incidental catch. And that makes managing shark fisheries very difficult. Also assessing them, because we have to account for the sharks that are caught in all these fisheries, which oftentimes we don't have a good handle on because those have to be estimated, they have to be observations, reports, etcetera. Another threat . . . The main one is fisheries. But then you have habitat loss or habitat degradation. So what happens, for example, with number of species of small and large coastal sharks is that they give birth in very shallow coastal areas. So with human construction and contamination, etcetera, that can pose problems to the survivorship or those early life stages.

0:16:19.6 DC: Another re-merging problem is climate change. So climate change, I just wanna make clear that we don't really know yet what the effects of climate change are or will be, because in many cases we don't have baseline data. So we cannot tell how things have changed when we don't know the status quo. What we can say though is the risks that are out there. So warming water temperatures that may change their distribution, things like ocean acidification, increased uptake of CO2 can also affect their prey. I mean, there is a cascading effect, and so it's a lot of potential risk of climate change, but we don't know yet what those are.

0:17:01.9 JS: So what is it about sharks that makes them vulnerable, either to exploitation or these changing conditions?

0:17:09.1 DC: So in general sharks, and not only sharks, but what we call elasmobranchs, which are shark, skates and rays, they grow slowly. They attain sexual maturity at a late age. And so they reproduce, their first reproduction is very delayed. They live many years. They have low fecundity. So only a certain number of pups that are born fully developed. In general, there are different types of reproduction, but in general, they're born fully developed mini replicas of the adults. So they are ready to go, so to speak. They also have long gestation periods and their breathing frequencies, so how often they made is very long. So many species reproduce every year, but other species reproduce every two or three years, maybe even more. So those are things that we are . . . We have made a lot of progress on, but we still have a lot of unknowns on. So that's a problem with sharks. So they have developed this life history strategy over the course of approximately 400 million years of evolution. So just having a few pups, a few offspring, makes it OK for them to maintain their population levels because they have few predators, probably larger sharks are their main predators. So that's a problem with sharks. Their low reproductive potential is essentially their Achilles heel.

0:18:42.0 JS: Yes, and that's all incredibly complicated. And it sounds like contributing factors to what makes them so hard to predict and to model. Could you tell us what it means to model shark populations? And also what are the data that you need?

0:19:00.2 DC: Yes, good question. So the type of model that we use depends on the data that we have. So there are four main types of data that we need to assess the status of populations. So we have Catches. Catches give us a sense of the scale of the population, how large the population is based on how many are removed. We have indices of relative abundance, what we call CPUE or catch per unit effort. That informs us about the trend of the population, is it going down, is it going up? Then we have the biology, or biology life history, same thing. That tells us about the intrinsic vulnerability of that population. How much can they take? How much exploitation can they take? And then we also have, in some cases, length and/or age samples that inform us about the segment of the population that's being exploited, what age groups or length groups. However, that's in an ideal scenario. For sharks, we often are in situations that we call data poor or data limited. We seldom have all these pieces of information. We have catches, yes, but there is uncertainty in the catches because a lot of them are estimated. There is uncertainty in some biological parameters as well.

0:20:24.9 DC: Sometimes we don't know how many years they live. We don't know how often they reproduce. We are often in data poor or data limited situations. Assessing shark populations is not easy because of the oftentimes sketchy data, but also managing them is very difficult because of bycatch in many different fisheries and trying to quantify all those sources of mortality. It's not an easy task.

0:20:56.8 JS: Sure, and you've got the added pressure of public scrutiny because sharks are, as you say, these charismatic species and there's a lot of interest.

0:21:06.3 DC: That's a good point. This has increased a lot. Through my career, I've seen the change in the level of scrutiny of, for example, the assessments we do. And of course, the managers are very much subjected to that scrutiny as well. So, in one way, things have become better. Data have become better in general, but we're still a long way from having really good data. There's been a lot of advances in the modeling, but at the end of the day, we need the data to model these populations.

0:21:43.4 JS: Dr. Enric Cortés is a senior scientist at the Southeast Fisheries Science Center, though he has just begun a process of phased retirement.

0:21:52.0 DC: I may continue trying to do some research just for fun, to have some fun at the end of my career and see sharks in real life again, not just through the computer end.

0:22:04.8 JS: Today, we've barely scratched the surface discussing many of the issues surrounding sharks, but as Karyl Brewster-Geisz reminds us, there are many ways to learn more and to make your voice heard if these issues are important to you.

0:22:17.2 KB: The general public can comment on any of our proposed rules or ongoing regulations. We have a lot of information available on our webpage, and anyone can also go to regulations.gov to submit written public comments. We do read every single comment we receive, and we make a lot of changes as a result of those public comments.

0:22:41.5 JS: Karyl Brewster-Geisz is Branch Chief for Regulations of the Atlantic, HMS Management Division. You can always find lots more information at fisheries.noaa.gov. I'm John Sheehan, and this has been Dive In with NOAA Fisheries.

Dewey Hemilright
Commercial Fisherman
Wanchese, North Carolina

July 24, 2023

Hon. Cliff Bentz, Chairman
Hon. Jared Huffman, Ranking Member
House Natural Resources Committee
Subcommittee on Water, Wildlife and Fisheries
Washington, DC 20515

Re: H.R. 4051, "SHARKED ACT"

Good Afternoon Chairman and members of the Natural Resource Subcommittee:

Hello, I'm Dewey Hemilright from North Carolina. I appreciate this opportunity to provide written testimony concerning H.R. 4051. I've been both actively involved around the table in the fisheries management process and a Commercial fisherman for over 30 years. This included serving actively since 1995 on the Shark operation team which later became part of the Highly Migratory Species Advisory Panel (HMS AP). In 2011, I was appointed to serve on the Mid-Atlantic Fishery Management Council [MAFMC] for North Carolina until August 10, 2023 when I reached my term limit. During that time, I've been an active Liaison to the HMS AP, the South Atlantic Fishery Management Council (SAFMC), and was appointed to the U.S. ICCAT Advisory Committee (IAC) along with serving on the US ICCAT delegation since 2019.

I have lived, worked and been actively involved in real time shark fisheries management and also the lack thereof. This has allowed me to be among the most experienced and qualified to testify on this bill H.R. 4051 [Shark Act].

Prior to 1993, you could shark fish 365 days a year and there was no trip limit. This wasn't sustainable, and so NMFS implemented a Shark Fishery Management Plan (FMP) that set a quota of about 2500 metric tons and a 4000 pound trip limit. That changed the landscape for the better. Then, regrettably, NMFS cut the quota in half to 1250 metric tons around 1996, and what that did was shorten the season

to directly harvest Large Coastal Sharks (LCS) with two seasons Jan-June then July-Dec until the quota was caught during each period. A number of fishermen quit shark fishing, and also during this time there were States with hundreds of thousands of pounds of unclassified shark landings, which wasn't good.

NMFS failed to manage the LCS throughout their range even though they had the authority and mandate to do so. The NMFS stock assessments were determined to be data poor and so basically they would assume or supplement numbers into stock assessments as 'best available science'.

With being a Commercial fisherman harvesting LCS from Dec 7, 1994 to the fall of 2006 traveling from Mayport, FL to Montauk, NY throughout the year and with a seasonal quota and with 4,000 pound trip limits of carcass weight harvest of LCSs.

After the Sandbar shark species stock assessment, which I focused on catching, was deemed overfished and overfishing occurring, NMFS stopped the directed harvest of Sandbar sharks. And then a limited number of vessels applied to enter into the Shark Research Fishery around 2008 and it basically gave a few qualified vessels about 200,000 pounds per year divided among less than 10 participants from Maine to Texas. Yet the last 5–6 years of quota has gone unharvested.

Over the last 10 years, federally permitted active commercial shark fishermen have decreased dramatically along with fishermen in other fisheries that interact with sharks. One only has to look at the NMFS quota monitoring website to see the directed shark fishery hasn't been landing its sustainable quota over the last 5 years. The only bright spot is Louisiana state water fisheries which continue to harvest a majority of the Gulf of Mexico quota, and the reason is that they allow fishermen to stack numerous shark, state permitted fishermen on one vessel [example one vessel could have 4 limits if that number of permitted fishermen were aboard].

NMFS management has not been flexible at all with its trip limit where there is plenty of quota available. Instead they chose to keep the trip limit the same, not increasing it when possible, which would have helped with the harvest and the few fishermen that are left to make money.

I can't remember the exact date, maybe it was in 2008, but another regulation was implemented which required shark fins to be naturally attached to the shark carcass when landed at the dock, which meant you had to double process your shark carcass, not under the best conditions at the dock and it was more time consuming. As a result, a few more fishermen have dropped out after that which further decreased effort in the fishery. The final nail in the coffin for the majority of the sustainable directed shark fishing industry was the recent, ill-fated domestic shark fin ban bill. This killed any chance of any of the available sustainable harvest of LCS or Small Coastal Sharks (SCS). There are now simply no fishermen left to work.

Everything that the States, NMFS, and Congress have done to date has succeeded in destroying the domestic shark industry along with the fishermen that lost their livelihood. So, for the purpose of this hearing and the issues of depredation along with scavenging (which is a shark eating a released fish), these problems are going to continue and actually get worse simply because the management worked and now there are a lot more sharks everywhere.

Given the millions of active recreational fishermen, both depredation and scavenging will continually get worse and could likely cause scientific uncertainty buffers to be placed in the Annual Catch Limit (ACL) available from domestic stock assessments. And further unknown factors if the Science and Statistical Committee (SSC) chooses.

Now here's how to fix it, but the effects won't be immediate—it would take some time given the loss of fishermen, infrastructure and markets. Congress should immediately introduce a bill called "The continued sustainable harvest of LCS and SCS species along with the regulation that fins are naturally attached and allow sale of all body parts ACT of 2023". If you can't possess de-attached shark fins fishermen should be allowed to discard them at sea with the entrails of the shark harvested. This would send a very strong message to the rest of the world of the USA's commitment to the sustainable harvest of sharks.

But most of all this would send a strong signal to American fishermen that Congress wants a US sustainable directed shark industry, because we have the best sustainable managed shark fishery even with its faults that could be worked on and be resolved in the near future. Such an Act should also include a BAN of any seafood imports that don't meet or exceed the U.S. regulations or gear used—that don't meet or exceed the sustainable conservation standards by which USA fisherman have to both harvest and report under. Such an Act would level the playing field for the AMERICAN fishermen and AMERICAN consumers. As well as

send a message to the rest of the world that the US will not allow its marketplace to be open to unsustainable fisheries practices.

If such major action does not happen immediately, two very important U.S. fisheries that harvest sharks will be seriously damaged, if not lost altogether, while the shrimp trawl fishery will suffer major losses due to sharks tearing holes in their gear.

So what is it going to be?

I appreciate Rep. Wittman's invitation to submit my 35 years of reality through my comments to this important issue and at the same time offer help in resolving it.

Thank You,

DEWEY HEMILRIGHT

Mr. WITTMAN. Mr. Chairman, thank you. I would like to thank you and Ranking Member Grijalva for holding this hearing today. I think it is incredibly important.

As we look at the balances that we see in our ecosystems, what we have seen is a resurgence of shark populations, which is good. But what we have also seen with that is shark depredation, which is essentially a very, very high frequency of the taking of fishermen's catch.

While we understand it is a natural part of predation, it also is becoming a widespread issue in our waters, and has increased rapidly in recent years. Our anglers are losing their catch and tackle to sharks at alarming rates, and in some areas it makes areas totally unfishable because you are not able to compete with the sharks to actually bring your catch to the boat.

I introduced the SHARKED Act to study this issue and to look into ways to improve sport fishing conditions for anglers while protecting sharks. And I think that we can do both. This bill establishes a fisheries management task force to focus on identifying research opportunities, recommending management strategies, and developing educational materials for fishermen.

This legislation that I have before the Subcommittee today helps fishermen understand which species of sharks have higher rates of depredation. Essentially, depredation is the taking of a recreational fisherman's catch. And in many instances, too, commercial fishermen are having to deal with that also.

And where is the most likely situation where the species are to intersect, where you have this depredation? This is going to serve as the first major step in improving communication and coordination among fisheries managers and addressing shark depredation nationwide. And it is a nationwide problem.

There are a number of organizations I want to thank that have been part of this. The American Sport Fishing Association has been incredibly important. We have other leaders, too, in the conservation and recreational fishing field that have been very, very supportive of this effort.

We want to get to a point of good public policy as it relates to shark populations and our recreational fisheries. I do think that there is a place where we can find a balance.

Again, Mr. Chairman, I want to thank you and the Ranking Member for holding this hearing, and I yield back the balance of my time.

Mr. BENTZ. Thank you, Mr. Wittman.

Mrs. Boebert, you are recognized for 5 minutes.

STATEMENT OF THE HON. LAUREN BOEBERT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO

Mrs. BOEBERT. Thank you, Mr. Chairman. I am proud to testify in support of H.R. 4596, my Upper Colorado and San Juan River Basins Endangered Fish Recovery Programs Reauthorization Act of 2023.

My bicameral and bipartisan bill provides a clean 7-year reauthorization of the Upper Colorado and San Juan recovery programs that protect four threatened and endangered native fish species in the Upper Colorado and San Juan River basins by extending conservation programs at current funding levels for 7 additional fiscal years.

These programs provide legal certainty for 2,500 water projects, and ensure future water development in the Upper Colorado River Basin. These projects, including 1,200 in Colorado alone, provide water for local municipalities, tribes, major reservoirs, agriculture, ski areas, power generation facilities, and others that use more than 3.69 million acre-feet of water per year.

The recovery programs also facilitate water delivery from Navajo Flaming Gorge, which collectively can store more than 6.5 million acre-feet of water as part of the Colorado River storage project.

The Upper Colorado and San Juan recovery programs were established in 1988 to achieve full recovery of four federally listed endangered fish species, including the humpback chub, bonytail, Colorado pikeminnow, and razorback sucker. Those designations led to the threat of significant water and power use restrictions.

For over three decades, states, tribes, and local communities, environmental groups, energy users, and water users have partnered to help recover four threatened and endangered fish species, while continuing water and power facility development and operations in the Upper Colorado River Basin and the San Juan River Basin.

Non-Federal partners contribute $11 million per year in water contributions, plus another $750,000 in staffing and in-kind contributions.

Participating states contribute $500,000 to base funding each year in cash equivalents for recovery action, including for fish hatcheries and non-native fish removal.

The Fish and Wildlife Service contributes $1.56 million per year in base funding.

The Bureau of Reclamation provides cost shared contributions to both base and capital funding. Reclamation's capital funding supports major infrastructure projects at reservoirs, diversion dams, canals, and floodplains across the basin.

Without these programs, these 2,500 water and power users would have to perform extremely burdensome section 7 consultations for all 2,500 individual projects. Because of the success of these programs, the humpback chub and the razorback sucker are success stories, with the chub downlisted from endangered to threatened, and the razorback being recommended for downlisting, as well.

Last Congress, I worked closely with the gentleman from Colorado, Mr. Neguse, on a short-term extension to reauthorize these programs until September 30, 2024. I am proud to report that this bill today is the result of months of hard work with local stakeholders, the Bureau of Reclamation, and Senators Hickenlooper and Romney and others to provide a long-term solution by reauthorizing these vital programs until 2031.

My bill has significant support from more than 30 Colorado and Western stakeholder organizations, including Denver Water, Pueblo Water, both of Colorado's Indian tribes, the Ute Water Users Association, and more.

I am thrilled to see the Bureau of Reclamation also provide testimony in strong support of my bill here today, and I urge quick passage of this critical bipartisan legislation through the Committee, the House, and into law.

And, Mr. Chair, I yield. Thank you.

Mr. BENTZ. Thank you, Mrs. Boebert. I now recognize Mr. Rutherford for 5 minutes.

STATEMENT OF THE HON. JOHN H. RUTHERFORD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. RUTHERFORD. Thank you, Mr. Chairman. I want to thank you, Chairman Bentz and Ranking Member Huffman, for having this important hearing today. I appreciate the opportunity to come before you today to discuss my bill, the Red Snapper Act.

I represent northeast Florida and over 30 miles of pristine coastline. And I can tell you northeast Florida's economy has been shaped by our coastal resources, and our active fishing community depends on access to our fisheries.

Our fishing economy is made up of more than just the anglers that go out on the water. It is also the bait shops, the marinas, the gear and boat manufacturers, and retailers, restaurants, hotels, and many, many other downstream businesses. And the way we manage our fisheries affects all of these businesses.

And I know this Committee is no stranger to fishery management challenges, especially when it comes to red snapper. As you know, red snapper is a very prized fish for both commercial and recreational anglers. And for the last 10 years, stakeholders in the South Atlantic have been successfully rebuilding the red snapper stock. According to the most recent stock assessment, Atlantic red snapper is more abundant today than anyone alive has ever seen.

However, instead of celebrating this success, we are here because there have been draconian and punitive proposals made in managing the stock. And the record number of red snapper on the reefs are driving increased encounters, which then lead to increased discards. And these discards, that data is then driving the overfishing assumptions, which has caused extremely short red snapper seasons, and frustrated many of our anglers.

In fact, this year, despite the growing stock, the recreational red snapper season was 2 days, 2 days. And let me say this, that creates a dangerous situation when you have a 2-day season and you have thousands of boats trying to go out at the same time. You wind up with fights at the dock, you wind up with everybody running out of gear. That creates a problem in itself.

But I was lucky enough this year to be able to go out on one of those days, and we caught our limit in about 45 minutes. There were five of us on the boat, which meant we got to catch five, and took about 45 minutes. We spent twice as much time, Mr. Chairman, going to and from our spot than we actually did fishing.

And while short seasons are frustrating, they are not even the most extreme management strategy that has been discussed in the South Atlantic, and this is why we are really here.

Following the latest stock assessment, NOAA has proposed area and time closures of bottom fishing to reduce out-of-season red snapper catches. Bottom closures would have severe and irreversible consequences. These closures threaten to devastate the very same anglers that have worked in good faith to rebuild the stock for the last 10 years. In fact, those reefs that those fish are on, our American sport fishermen are the ones who built those reefs. They weren't there before.

Now, fortunately, after significant pushback from the fishing community, these closures were not included in the amendment to the Council ultimately passing. However, closures are still on the table as a long-term solution. That is why I am here.

Over the last 4 years, Congress has appropriated, in a bipartisan fashion, $5 million for an independent study of red snapper stock in the South Atlantic.

Moving straight to closures before we get the results from the South Atlantic Red Snapper Count defies common sense. If closures are implemented, northeast Florida would surely take the brunt of the impact.

Mr. Chairman, all my bill says is don't close the bottoms until we get this count in, and it is used in the determination of the red snapper stock that is down there. If these closures are implemented, it is going to be very difficult in my district.

The reefs off northeast Florida are home to a very large population of these red snapper. In fact, I have had divers tell me that the red snapper down there are so thick you can walk across their backs.

Nobody wants to preserve the red snapper stock more than these anglers. Instead of punishing them with bottom closures, let's look at innovative management strategies like we have seen in the Gulf of Mexico, and continue to improve our data about this fish stock.

I appreciate the Committee's attention to this important issue, and I look forward to continuing to work with you to balance the protection of our fisheries with the access to this important natural resource.

Thank you for having me here today, and I yield back.

Mr. BENTZ. Thank you, Mr. Rutherford, and I want to thank the Members for their testimony. I will now introduce our second panel.

Dr. Kelly Kryc, Deputy Assistant Administrator for International Fisheries with NOAA; and Mr. Stephen Guertin, Deputy Director for Program Management and Policy with the U.S. Fish and Wildlife Service.

As I know you know, but let me remind you, under Committee Rules, you must limit your oral statements to 5 minutes, but your entire statement will appear in the hearing record.

To begin your testimony, please press the "talk" button on the microphone.

We use timing lights. When you begin, the light will turn green. When you have 1 minute remaining, the light will turn yellow. And at the end of 5 minutes, the light will turn red, and I will ask you to please complete your statement.

I will also allow all witnesses to testify before Member questioning.

I now recognize Dr. Kryc for 5 minutes.

STATEMENT OF KELLY KRYC, DEPUTY ASSISTANT SECRETARY FOR INTERNATIONAL FISHERIES, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, WASHINGTON, DC

Dr. KRYC. Chairman Bentz, Ranking Member Grijalva, and members of the Subcommittee, thank you for the opportunity to testify today. I am Kelly Kryc, and I serve as NOAA's Deputy Assistant Secretary for International Fisheries. In this role, I am responsible for representing U.S. interests in various multilateral and bilateral fisheries fora. Today, I am here to represent NOAA's views on three of the bills under consideration, and I look forward to any questions and the discussion that follows.

I will first address H.R. 1792, the South Pacific Tuna Act of 2023. The South Pacific Tuna Treaty between the governments of the United States and several Pacific Island States has provided a solid foundation for a mutually beneficial strategic relationship in the region for more than three decades. It is viewed as a model of international and fishery cooperation, and has helped establish fisheries observer and data reporting requirements, as well as enforcement standards for the region's fisheries.

NOAA supports H.R. 1792, which would amend the South Pacific Tuna Act of 1988 to reflect the amendments to the treaty agreed to in December 2016. These amendments provide greater flexibility and maintain access for U.S. fishing vessels operating in the region.

The South Pacific Tuna Act of 2023 provides necessary changes to the existing law to allow NOAA to promulgate regulations that fully implement the amendments made to the treaty. NOAA appreciates the Committee's attention to this topic.

Next, I will address H.R. 4587, the Red Snapper Act. Red snapper is one of the most popular fish species in the Southeast United States, as recognized by Congressman Rutherford. And NOAA remains committed to ensuring the successful implementation of the Red Snapper Management Program.

The most recent stock assessment in 2021 indicated that South Atlantic red snapper are undergoing over-fishing, are over-fished, and are currently rebuilding. As noted in the bill, red snapper over-fishing is primarily caused by discard mortality associated with fishing snapper-grouper species during the red snapper season closure. Therefore, lowering the catch limits of red snapper alone without also addressing the discard mortality issue associated with the snapper-grouper fishery will not end over-fishing.

While time area closures can be a tool to manage over-fishing, at this time the South Atlantic Fishery Management Council is not

recommending such an action. Therefore, it is NOAA's position that this legislation is unnecessary.

In the interim, the Council and NOAA are looking at other actions to manage the multi-species snapper-grouper fishery in a more holistic manner, as well as testing innovative strategies to reduce discard mortality. We are happy to speak to the Committee further regarding ongoing science and management actions.

Finally, regarding H.R. 4051, or the SHARKED Act, NOAA recognizes the concerns associated with increased reports of shark depredation. As you noted, Congressman, depredation is a complex topic, and solving its many causes may be outside the control of fisheries managers.

Further, completely eliminating depredation is neither practicable nor feasible. Under the Magnuson-Stevens Fishery Conservation and Management Act, NOAA is responsible for ensuring that sharks are sustainably managed, both to prevent over-fishing of sharks, and also to rebuild any stocks that have been over-fished.

As shark populations rebuild, and climate change impacts where sharks and their prey are located, shark depredation events will likely continue. To address these issues, NOAA has invested funding in a range of studies and research on depredation, including through our bycatch reduction engineering program, which are detailed more fully in our 2022 report to Congress on this subject.

We welcome the opportunity to work with Congress on H.R. 4051 and these important issues. NOAA is proud to lead the world in conducting ocean science, serving the nation's coastal communities and industry, and ensuring responsible stewardship of our ocean and coastal resources.

Thank you for the opportunity to testify on these bills, and I look forward to your questions.

[The prepared statement of Dr. Kryc follows:]

PREPARED STATEMENT OF KELLY KRYC, DEPUTY ASSISTANT SECRETARY, NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE

ON H.R. 1792, H.R. 4051, AND H.R. 4587

Chair Bentz, Ranking Member Huffman, and Members of the Subcommittee, thank you for the opportunity to testify today. NOAA is responsible for the stewardship of the nation's living marine resources and their habitat. We provide vital services for the nation: sustainable and productive fisheries, safe sources of seafood, the recovery and conservation of protected species, and healthy ecosystems—all backed by sound science and an ecosystem-based approach to management. The resilience of our marine ecosystems and coastal communities depends on healthy marine species.

We offer the following comments on the bills under consideration today and look forward to discussing our views with the Subcommittee.

H.R. 1792—South Pacific Tuna Act

NOAA supports H.R. 1792, the South Pacific Tuna Act of 2023 (SPTA). This bill will update the existing South Pacific Tuna Act of 1988 with conforming edits to reflect the recent amendments to the South Pacific Tuna Treaty (the Treaty), a multilateral treaty between the governments of the United States and several Pacific Islands, which were agreed by the Parties in December 2016, and received advice and consent to ratification from the Senate in July 2022. The primary goal of the Treaty amendments is to provide greater flexibility for both U.S. vessels and the Pacific Island parties (PIPs) to negotiate levels of access for U.S. vessels to PIPs'

waters, while maintaining a reasonably certain operating environment for U.S. vessels. The amendments to the SPTA will allow NOAA to efficiently implement annual access and fee agreements and new operational requirements, allowing the United States and its vessels operating under the Treaty to benefit. The amendments to the SPTA are necessary for the United States to ratify the amended Treaty.

The Treaty, which entered into force in 1988, provides fishing access for U.S. purse seine vessels to the exclusive economic zones (EEZs) of 16 members of the Pacific Islands Forum Fisheries Agency (FFA)—Australia, Cook Islands, Federated States of Micronesia, Fiji, Republic of Kiribati, Republic of the Marshall Islands, Republic of Nauru, New Zealand, Niue, Republic of Palau, Papua New Guinea, Samoa, Solomon Islands, Kingdom of Tonga, Tuvalu, and Republic of Vanuatu—and promotes broader cooperation between the parties and relevant stakeholders.

The Treaty has provided a solid foundation for a mutually beneficial strategic and economic relationship between the United States and the PIPs for more than three decades. It is viewed as a model of international and fishery cooperation and has helped establish fisheries observer and data reporting requirements, as well as monitoring, control and surveillance standards for the region's fisheries, all of which are vital to deterring illegal, unreported, and unregulated fishing. It serves U.S. economic interests by providing predictable and advantageous access to the world's most lucrative tuna fishing grounds and also serves as an important vehicle for public and private-sector cooperation with the Pacific Islands region on issues ranging from maritime security to capacity building and economic assistance. Beyond its specific provisions, the Treaty has symbolic importance as a long-standing component of the political and economic relationship between the United States and Pacific Island countries.

NOAA is responsible for implementing the Treaty, and, on behalf of the Secretary of Commerce, is responsible for issuing the domestic regulations needed to carry out the terms of the Treaty and the objectives of the SPTA. These amendments to the SPTA are necessary in order to allow NOAA to promulgate regulations to fully implement the amendments to the Treaty. Regulations issued under the SPTA are applicable to all U.S. purse seine vessels operating under the Treaty, and include requirements related to vessel licensing under the Treaty, reporting on fishing activities, carrying vessel observers, and operating transmitters used as part of the satellite-based vessel monitoring systems, and more.

In order to continue its leadership role in regional fisheries conservation and management, it is important for NOAA to have a strong and productive U.S. purse seine fishery in the region. NOAA appreciates the Committee's attention to this topic.

H.R. 4587—Red Snapper Act

NOAA would oppose legislation which removes one of the most common management tools that the Councils and NOAA use around the country to achieve Congressionally mandated objectives to end overfishing and rebuild stocks. This bill would provide that the Administrator of NOAA not issue an interim or final rule that includes an area closure in the South Atlantic for species managed under the Snapper-Grouper Fishery Management Plan until the South Atlantic Red Snapper Count Research Program [1] (otherwise referred to as the South Atlantic Great Red Snapper Count) is complete and the data related to that study is integrated into the stock assessment.

Currently, the Council is not proposing, in its advisory capacity, that NOAA Fisheries develop a South Atlantic Red Snapper closed area. Were the Council to do so, it is unlikely that NOAA's regulatory process would conclude prior to the completion of the South Atlantic Great Red Snapper Count. As such, the legislation is likely unnecessary.

A 2021 stock assessment indicated that South Atlantic red snapper are undergoing overfishing (too many fish being caught), are overfished (the stock size is too low), and are currently rebuilding. Red snapper overfishing is primarily caused by discard mortality incurred when the red snapper season is closed and fishermen are targeting snapper-grouper species that co-occur with red snapper. Therefore, reducing the harvest of red snapper alone (i.e., lowering the catch limits) will have minimal impact toward ending overfishing. The vast majority of discard mortality for red snapper (99% of dead discards in numbers of fish from 2017–2019) occur in the recreational sector (private and for-hire). In response to the stock assessment, the South Atlantic Fishery Management Council (Council) developed a regulatory

[1] The South Atlantic Great Red Snapper Count is an effort financially supported by NOAA's National Sea Grant College program and overseen by the Sea Grant programs of Florida, Georgia, South Carolina and North Carolina with scientific oversight from NOAA Fisheries.

amendment that, if implemented by NOAA, would reduce the catch levels and implement gear requirements for harvest of snapper-grouper species.

The Council originally proposed analyzing time/area closures at their June 2022 meeting but ultimately did not consider time-area closures in their regulatory amendment. The Council approved this regulatory amendment for proposal to NOAA in the Council's advisory capacity at their March 2023 meeting. However, this amendment, if implemented, would not have ended overfishing, which is required by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Once NOAA receives the regulatory amendment from the Council, it will initiate an evaluation to determine if the amendment is consistent with the Magnuson-Stevens Act and other applicable laws. If it is consistent with Federal law, NOAA will proceed with rulemaking.

The South Atlantic Great Red Snapper Count will provide an estimate of abundance for the South Atlantic red snapper population and is expected to be available in 2025, at which time it will be incorporated into the upcoming stock assessment. Following this count, NOAA will perform its stock assessment between 2024 and 2026, and in 2027, it will operationalize the stock assessment by incorporating it into the science and management of the stock. Meanwhile, the Council is conducting a Management Strategy Evaluation of the snapper-grouper fishery to provide information to manage the multi-species snapper-grouper fishery in a more holistic manner. The Council and NOAA are also considering Exempted Fishing Permitted projects to test innovative management strategies to reduce effort and dead discards of red snapper and other snapper-grouper species.

H.R. 4051—Supporting the Health of Aquatic Systems Through Research, Knowledge, and Enhanced Dialogue (SHARKED) Act

Regarding H.R. 4051, or the Supporting the Health of Aquatic systems through Research, Knowledge, and Enhanced Dialogue (SHARKED) Act, NOAA recognizes the concerns regarding shark depredation and are working to find ways to mitigate any impacts to the extent practicable. Depredation is a complex topic with multiple facets, including some that are beyond the control of fisheries managers. It is worth noting that sharks are not the only species that are involved in depredation events. For example, in the Gulf of Mexico, dolphins and large groupers are also common culprits of depredation, while in Alaska and on the West Coast, orcas and sperm whales often engage in depredation. NOAA has invested funding in a range of studies and research on depredation, including through our Bycatch Reduction Engineering Program. The results of some of these studies and the overarching need for research were outlined in the Report to Congress that we provided last year per the Joint Explanatory Statement accompanying the Consolidated Appropriations Act, 2021. NOAA does not have resources to implement this bill should it become law.

Eliminating depredation is neither practicable nor feasible. As required by the Magnuson-Stevens Fishery Conservation and Management Act, NOAA has successfully rebuilt stocks and continues to work to prevent overfishing of and rebuild overfished shark stocks. As shark populations rebuild and climate impacts the location of sharks and prey, shark depredation events will likely continue. Given the complexities involved, NOAA aims to identify ways to mitigate the impact of depredation on fisheries and the fishing community. To do that, we need better data on the extent of depredation and the species involved (both those being depredated upon and those doing the depredating) and we need to continue investing in efforts to mitigate and/or deter interactions. We are working to include depredation in various reporting mechanisms used by commercial and recreational fishers and, as described above, are already investing in mitigation and deterrence efforts. We welcome the opportunity to work with Congress on H.R. 4051 and these important issues.

Conclusion

NOAA is proud to continue to lead the world in conducting ocean science, serving the nation's coastal communities and industries, and ensuring responsible stewardship of our ocean and coastal resources. We value the opportunity to continue working with this Subcommittee on these important issues. Thank you and your staff for your work to support NOAA's mission.

Mr. BENTZ. Thank you, Dr. Kryc. I now recognize Mr. Guertin for 5 minutes.

STATEMENT OF STEPHEN GUERTIN, DEPUTY DIRECTOR FOR PROGRAM MANAGEMENT AND POLICY, U.S. FISH AND WILDLIFE SERVICE, WASHINGTON, DC

Mr. GUERTIN. Good morning, Chairman Bentz, Ranking Member Grijalva, and members of the Subcommittee. Thank you for the opportunity to testify today on three bills regarding the management of black vultures, conservation of coastal habitats, and collaborative conservation in the New York-New Jersey Watershed.

H.R. 1437 would authorize individual livestock producers to take black vultures without a depredation permit. We recognize that black vultures target livestock, especially animals that are newly born or weak, and these depredations can cause undesirable losses to agricultural producers. We work with USDA's Wildlife Services to manage vultures causing these impacts.

Our partnership with USDA brings a wealth of experience and expertise to working with landowners on the best solution for depredation caused by black vultures, which are a protected species under the Migratory Bird Treaty Act. Non-lethal management can be particularly important in prime roosting habitat, where the species will repeatedly return over time. If non-lethal techniques are expected to prove ineffective, we can then issue a Federal depredation permit.

In the past, these permits were handled on a case-by-case basis. However, beginning in 2017, we initiated a pilot program that allowed the Service to issue these Federal depredation permits to state agencies or farm bureaus, who then issue sub-permits to individual producers. This program is now available to every state east of the Mississippi, across the range of the black vulture population.

We want to emphasize this: for states participating in the program, requests for depredation sub-permits are well below maximum levels. We can issue a lot more take of black vultures. If there are challenges to getting these permits to producers, we are interested in working to address those challenges within the existing legal framework.

However, we oppose H.R. 1437, as written, because entirely eliminating a permit impairs our ability to pursue first non-lethal management measures, and in our view, annual reporting requirements are insufficient to provide up-to-date information to ensure takings are at a sustainable level.

The Service has demonstrated a willingness to engage with Congress and the agriculture community to improve management of black vultures, and would welcome continued collaboration to ensure that ranchers and farmers have the flexibility they need to protect livestock from black vulture depredations while ensuring sustainable take.

H.R. 2950 would codify the Service's coastal program and authorize $20 million in annual appropriations, increasing to $25 million by Fiscal Year 2028. We support this legislation, which would strengthen our ability to carry out this successful partnership program.

Coastal Program is our premier voluntary, locally-based habitat conservation and restoration program. It provides technical and financial assistance to willing partners who are interested in

conserving or restoring coastal habitat on public and private lands. We have field staff in 24 priority coastal areas, and they collaborate on projects with a wide variety of partners.

Since it was established in 1985, the Coastal Program has collaborated with more than 8,200 partners to protect 2.3 million acres of habitat, restore more than 600,000 acres of habitat, and restore 2,800 stream miles in coastal watersheds. The program leverages partner contributions at a remarkable five-to-one ratio or greater, amplifying its impact and making it a successful, efficient use of conservation funding. And codifying the program and authorizing appropriations would ensure the Coastal Program can continue to support collaborative coastal conservation projects that benefit wildlife and fisheries.

And last, H.R. 2982 would establish a non-regulatory New York-New Jersey Watershed Restoration Program, directing the Service to consult with the state and partners in the Watershed to develop a watershed-wide restoration strategy.

Further, it would authorize funding for the Service to provide competitive matching grants and technical assistance to support restoration activities.

We support this legislation, but we want to note a general concern about the cumulative impact of regional grant projects on our ability to prioritize conservation resources at a national level. We have a long history of collaborative conservation work in the New York-New Jersey watershed, including at three National Wildlife Refuges, two Urban Wildlife Partnerships and work through our Partners for Fish and Wildlife and Highlands Conservation Act programs. Formal authorization for a unified watershed restoration Framework would echo similar programs we have in the Delaware River Basin and Chesapeake Watershed.

Thank you again for the opportunity to testify today. We appreciate the Subcommittee's interest in migratory bird management, coastal restoration, and watershed conservation. I would be pleased to answer any questions that you may have.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Guertin follows:]

PREPARED STATEMENT OF STEPHEN GUERTIN, DEPUTY DIRECTOR FOR POLICY, U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

ON H.R. 1437, H.R. 2950, AND H.R. 2982

Introduction

Good morning, Chairman Bentz, Ranking Member Huffman, and Members of the Subcommittee. I am Stephen Guertin, Deputy Director for Policy for the U.S. Fish and Wildlife Service (Service) within the Department of the Interior (Department). I appreciate the opportunity to testify before you today on three bills regarding the management of migratory birds, collaborative conservation of coastal resources and habitats, and the protection of our nation's watersheds.

Consistent with the principles underlying the Biden-Harris Administration's America the Beautiful initiative, the Service takes a collaborative and inclusive approach to conservation. The mission of the Service is working with others to conserve, protect, and enhance fish, wildlife, plants, and their habitats for the continuing benefit of the American people. The collaborative nature of our conservation mission is more important than ever as we address complex conservation challenges that cut across jurisdictions and boundaries. For instance, protecting migratory birds and other wide-ranging species necessitates close coordination of conservation and management actions with local, state, and international partners. Similarly, protecting and restoring sensitive wildlife habitats like salt marshes

requires collaboration with the wide array of partners and communities who value and rely on these important coastal ecosystems.

The Service achieves strong conservation outcomes by working at large scales and implementing programs hand-in-hand with private landowners, state agencies, Tribes, non-governmental organizations, and other partners. Our Migratory Birds Program works together with farmers and ranchers to develop new initiatives that protect migratory birds and support livelihoods. The Service's Coastal Program has worked with thousands of partners since 1985 to successfully protect and restore priority habitats in coastal watersheds across the country for the benefit of wildlife and communities. Additionally, the Service's Science Applications program identifies shared conservation priorities and delivers the scientific information and tools that partnerships need to achieve conservation goals across the landscape. These are just a few of many collaborative conservation examples that characterize the Service's work.

Several of the bills under consideration today seek to expand or modify how the Service works with others in achieving our conservation mission. We offer the following comments on three bills under consideration today and look forward to discussing our views with the Subcommittee.

H.R. 1437, Black Vulture Relief Act of 2023

H.R. 1437 would authorize livestock producers and their employees to take black vultures (*Coragyps atratus*) with a reasonable belief the birds will cause death, injury, or destruction of livestock. Individuals who take a black vulture would be required to report take on an annual basis to the Service.

Black vultures are large, scavenging birds that are present throughout the mid-Atlantic and southeastern United States, as well as less frequently in the Southwest. Black vultures migrate from summer habitat in the northeast to wintering habitat in Central and South America and are protected under the Migratory Bird Treaty Act (MBTA).

Under the MBTA, the Service is responsible for implementing the four bilateral treaties entered into with Canada, Mexico, Japan, and Russia to conserve covered species and protect birds from unauthorized take. The Service is the lead federal agency for the conservation of migratory birds and the enforcement of the MBTA, which includes close to 1,100 species. The Service conducts surveys and monitoring to determine the status of populations, coordinates public and private partnerships, provides grants through programs that conserve millions of acres of habitat such as the North American Wetlands Conservation Act and Neotropical Migratory Bird Conservation Act, and administers the Migratory Bird Hunting and Conservation Stamp, also known as the Federal Duck Stamp. The Service maintains regulations for the take and research of migratory birds, including depredation and scientific collection, and makes permits available to be issued as appropriate.

Increasing human populations, development, and land use changes, coupled with recovering bird populations have resulted in increased black vulture-human conflicts. Black vultures are known to target livestock, especially animals that are newly born or weak, which can cause losses for livestock producers. The Service works cooperatively with the U.S. Department of Agriculture's Animal and Plant Health Inspection Service, Wildlife Services (Wildlife Services) to cooperatively manage depredating black vultures. The Service's preferred method of control is to use non-lethal techniques such as bothering the bird (i.e. hazing) to get it to leave and find a new place to roost. If non-lethal techniques are ineffective, the Service can issue a federal depredation permit with documentation from Wildlife Services outlining the damage being caused by black vultures and including recommendations to alleviate the problem.

Previously, these depredation permits were handled on a case-by-case basis. In 2015, based on feedback from the agriculture industry and landowners, the Service began working with the Farm Bureaus of Kentucky and Tennessee on a pilot program to issue a depredation permit to the State Farm Bureaus, which could then more efficiently issue sub-permits to individual producers. During the duration of the pilot program from 2017 to 2019, depredation permits for a total of 3,950 birds were authorized. As the original pilot program concluded in 2019, the Service was authorizing the average annual take of 32,167 vultures nationally, which is significantly under the annual maximum take the population could sustain. The amount of that authorized take actually utilized is well below the allowable limit that was set by the Service, based on an environmental assessment and population data, to ensure sustainable levels of take. The pilot was so successful that in 2021, the Service extended the program across the full range of black vulture populations, and it is now available to every State east of the Mississippi River. In States that choose to participate in the program, the Service can partner with Farm Bureaus, State

Departments of Agriculture, and other entities that are issued a state-wide permit. These entities can then offer sub-permits to individual livestock producers and centralize the required reporting. Individuals who suffer property damage of any other kind or who live in States that choose not to participate in the program must seek individual permits from the Service.

The Service understands that depredating black vultures continue to present challenges for livestock producers, and we are committed to improving black vulture management. However, the Service is opposed to H.R. 1437. As currently written, the bill would remove important accountability measures and reporting that ensure the sustainable management of black vulture populations and timely monitoring of take. The annual reporting requirement in the bill is not sufficient for the Service to monitor black vulture populations. Knowing when and where black vultures are taken is important to ensuring total take remains under the annual maximum take levels set by the Service. H.R. 1437 only addresses one reason for black vulture take in livestock depredation, so having accurate and timely accountability is important to manage the permitting for producers in conjunction with take permits issued for aviation safety and property damage. Additionally, by authorizing take for individual producers without a permit, H.R. 1437 would also limit the opportunity for the Service to recommend other mitigation methods, which may be more effective in addressing and removing depredating vultures. This is particularly important in cases where lethal take is proving ineffective due to the species' continual return to prime roosting habitat. Lastly, in States participating in the program, requests for black vulture take have remained below maximum allowable levels. As such, the Service believes there is opportunity for producers in need of permits or increased levels of take to protect their resources under the current program.

The Service would welcome the opportunity to work with the bill sponsor and the Subcommittee to learn more about the concerns of constituents and work together to ensure producers have assistance in preventing and mitigating black vulture depredations, as well as access to sufficient permits when appropriate, while ensuring that the proper data is collected for implementation and enforcement of the MBTA.

H.R. 2950, Coastal Habitat Conservation Act of 2023

H.R. 2950 would codify the Service's Coastal Program and authorize appropriations for the program that would begin at $20 million for Fiscal Year (FY) 2024 and increase over time to $25 million for FY 2028. The Service supports H.R. 2950, which would strengthen our authorities to continue this successful program.

The Service's Coastal Program is a successful, voluntary, locally based habitat conservation and restoration program. The program provides technical and financial assistance to willing partners, including State and Tribal agencies, coastal communities, conservation organizations, and other federal partners to protect, restore, and enhance priority habitats that benefit fish, wildlife, and people on public and private lands. The program is a catalyst that leverages considerable non-federal participation and funding for coastal conservation.

Coastal Program projects build coastal resilience to the impacts of climate change by improving the health of coastal ecosystems. They support the conservation of federal trust species and have contributed to the recovery and downlisting of 15 species listed under the Endangered Species Act. The program also supports natural and nature-based infrastructure by restoring saltmarsh and streams in coastal watersheds, coastal barrier islands, seagrass beds, and mangrove forests.

These projects provide lasting benefits to coastal communities by employing contractors and stimulating local economies, restoring coastal wetlands that support commercial and recreational fisheries, improving water quality, and increasing opportunities for hunting, fishing, and wildlife observation.

Since 1985, the Coastal Program has collaborated with more than 8,200 partners to protect more than 2.3 million acres of habitat and restore more than 600,000 acres of habitat and 2,800 stream miles in coastal watersheds. Through these partnerships, the program leverages partner contributions at a ratio of 5:1 or greater, significantly increasing the positive impact and reach of the program.

The Service supports H.R. 2950, which would codify the Coastal Program's approach to voluntary, collaborative conservation—a proven and effective strategy to achieve shared conservation goals. Authorizing this program would reaffirm that protecting and restoring coastal habitats is an important role for the Service. It would ensure that the program is secure and continues to be a versatile tool in the Service's conservation toolkit. In addition, H.R. 2950 would establish a strong benchmark for annual appropriations and increase Congressional engagement in and oversight of the program, ensuring that the Coastal Program has the necessary capacity to serve priority coastal areas.

H.R. 2982, New York-New Jersey Watershed Protection Act

The Service supports H.R. 2982, which would direct the Secretary of the Interior (Secretary), working through the Director of the Service, to establish a non-regulatory New York-New Jersey Watershed Restoration Program (Program). In carrying out the Program, the Service would consult with the States of New York and New Jersey, other Federal agencies, and partners in the New York-New Jersey Watershed (Watershed) to identify, prioritize, and implement restoration and protection efforts and adopt a Watershed-wide strategy.

H.R. 2982 would also establish the New York-New Jersey Watershed Restoration Grant Program, a voluntary program that would provide competitive matching grants and technical assistance to eligible entities to carry out coordinated restoration and protection activities in the Watershed. The Secretary would be authorized to increase the Federal cost share of an activity for certain communities and to enter into an agreement for grant management. H.R. 2982 would authorize $20 million annually for these programs for FY 2024 through 2029.

The Service has a long history of working collaboratively with partners to conserve lands and waters in the Watershed for the benefit of people and wildlife. The Service engages a diverse public in fish and wildlife-associated recreational and educational activities at the Watershed's three national wildlife refuges. Two Urban Wildlife Partnerships in the region foster connections between residents—especially youth—and natural areas. Our Partners for Fish and Wildlife Program provides technical assistance to private landowners in the area who are interested in conserving and restoring habitat on their lands. In addition, the Service and the U.S. Forest Service work together through the Highlands Conservation Act to help the Highland States of Connecticut, Pennsylvania, New York, and New Jersey, local governments, nonprofits, and farm and forest landowners conserve the land and resources of the Highland region, which includes the Watershed and waters downstream.

Collaborative, landscape-scale conservation efforts like the one proposed by this bill are a cornerstone of the Service's mission and are among the most effective approaches to tackling 21st century environmental challenges like climate change, habitat degradation, and biodiversity loss. In our experience administering similar programs, such as the Delaware River Basin Restoration Program (DRBRP) and Chesapeake Watershed Investments for Landscape Defense (WILD), we see how partner-driven, non-regulatory, collaborative efforts result in significant conservation gains. Through the DRBRP, the Service has partnered with the National Fish and Wildlife Foundation to award $40.4 million to 123 projects in the Delaware River Basin, which generated $59.7 million in matching funds for a total conservation impact of $100.1 million. We believe H.R. 2982's proposed program and targeted investment would deliver similar benefits. Additionally, by providing the Secretary authority to increase the federal share of restoration and protection costs, we believe this legislation would enable the Program to reduce the burden and increase accessibility for small, rural, and disadvantaged communities previously unable to access similar funding.

Although the Service supports this bill, and we agree that it would be a significant benefit to facilitating partnerships, and designing and implementing conservation and restoration projects in an important watershed, we have some concerns. The Service is concerned about the cumulative effect of this bill and other similar regional grant projects, like those referenced above, on the Service's overall budget and ability to prioritize conservation of resources for the Nation. The Service would welcome the opportunity to discuss this concern with the sponsor and Subcommittee. We would also welcome the opportunity to work with the sponsor and Subcommittee to ensure such a program is adequately supported to carry out authorized functions. This grant program places an emphasis on technical assistance provided by the Service, which would help increase public access to the Program, improve application quality, and ensure that funded projects have the resources to be successful. In addition, the Service would work to build a coalition of partners in the Watershed and form foundational relationships that advance the responsibilities and priorities of the Program. For these reasons, we would welcome the opportunity to work with Congress to ensure appropriate flexibility to cover administrative costs and ensure that the New York-New Jersey Watershed Restoration Program complements ongoing work in the Watershed and other areas.

Conclusion

We appreciate the Subcommittee's interest in community-based, collaborative conservation and in migratory bird and coastal conservation. We look forward to working with you on these and future legislative efforts.

Mr. BENTZ. Thank you, Mr. Guertin. I thank the witnesses for their testimony. I will now recognize Members for 5 minutes each for questions.

Mr. Wittman, you are recognized for 5 minutes.

Mr. WITTMAN. Thank you, Mr. Chairman.

Dr. Kryc, I would like to get your perspective on where we are with stock assessments for sharks. I know they all fall into different categories: large coastals, pelagics. Can you give us a current status of where those stock assessments are, when the latest stock assessment was done for large coastals, for pelagics?

There has recently been a cessation or a ban on catching mako sharks, specifically longfin and shortfin makos. Can you give us an update on where we are with current stock assessments?

Dr. KRYC. Thank you, Congressman, for the question.

NOAA manages approximately 63 shark stocks. I don't have the specific numbers regarding where the stock assessments are for each of those. I can speak a little bit to the mako issue as a resolution or a measure that was agreed to in an international forum in the ICCAT fora that bans retention of shortfin mako in the North Atlantic.

Mr. WITTMAN. I will let you get to that question, but I want to drill down a little bit further on stock assessments, because stock assessments really get to the earlier regulatory action taken on essentially stopping any sort of viable catch of large coastals. And the idea was that those stocks needed to recover. And because sharks have long gestation times, the thought was, well, we have to have much longer periods when these closures exist.

The challenge with that is you also have to have stock assessments to determine where the recovery is, and we have not had a recent stock assessment. I would love for you to get that information to the Committee. I think that is incredibly important.

One thing, too, I asked you to comment on is we know that sharks are different than other fish. Sharks are livebearers. They don't spawn, so it is not like you have to have eggs that are out there to be fertilized by sperm, and you have lots of little larvae, and they swim around, you have all kinds of plankton eaters that eat them so you have to have millions of eggs in order to get a handful of fish. Sharks are livebearers, which means their survivability of their young is much, much greater. So, I was going to ask several things.

Has NMFS looked at fecundity of sharks in relation to mortality, and have you looked at survival rates based on them being livebearers, and how the stocks are managed, and where the stocks are today currently?

And if you haven't done a recent stock assessment, shouldn't that inform where we are today in looking at population recoveries?

And I would like to hear your perspective on ICCAT's determination and stoppage of catch of shortfin mako here in the Atlantic.

Dr. KRYC. Thank you for that question, Congressman. Again, I don't have the specifics on the status of the stock assessments for all of the species, but would be very happy to get you more information.

Mr. WITTMAN. Can you speak to any of the science behind how those stock assessments are made, the nature of how sharks repro-

duce, their fecundity, biomass as it relates to spawning, biomass versus biomass that is reaching spawning age?

I mean, all those things are dynamics about how management should happen under Magnuson-Stevens. I would expect that you would know at least how the Agency has looked at that and where you are today, assessing how you are managing that species, which is a statutory requirement under Magnuson-Stevens for the Agency.

Dr. KRYC. Thank you. I appreciate your question. And the Agency is committed to using the best available——

Mr. WITTMAN. I understand. Listen, I don't question the Agency's commitment.

What I want from you is an answer as to the science. You say that you are an agency based on science. Based on the statutes and Magnuson-Stevens, I would hope that you could speak a little bit to that because the mechanics of how these decisions are made and what decisions are made are critical to not only the stock itself, but also to the current situation we find ourselves in.

Dr. KRYC. I do appreciate your question. I am not familiar with the specifics of how the stock assessments are conducted with respect to the shark species, but we can get that information to you.

Mr. WITTMAN. Can you speak then to the shortfin mako ban?

Dr. KRYC. I can speak to the shortfin mako ban. There has been an issue with the stock recovery associated with shortfin mako, and the United States has taken extraordinary efforts over the past many years to reduce our mortality of the species by implementing circle hooks, and improving all sorts of our fisheries management.

Unfortunately, based on the efforts by the United States alone, the global stock status of shortfin mako in the Atlantic continued to suffer. Therefore, actions were taken internationally to ensure that the stock could rebuild.

Mr. WITTMAN. Thank you, Mr. Chairman. I yield back.

Mr. BENTZ. Thank you, Mr. Wittman.

Mrs. Radewagen, you are recognized for 5 minutes.

Mrs. RADEWAGEN. Thank you, Mr. Chairman. Talofa, good morning. Thank you for testifying today.

Dr. Kryc, can you describe the challenges NOAA has had since the treaty has been renegotiated but not implemented in the U.S. code?

Dr. KRYC. Thank you, Congresswoman Radewagen, and talofa. Thank you for your question.

I would like to first thank you and Representative Case for your leadership in championing this legislation. NOAA sees it as imperative for our ability to implement the amendments to the treaty. This treaty provides access to the most lucrative tuna fishing grounds in the world for the U.S. fleet, and is a model for cooperation between the United States and the Pacific Island States.

In the absence of finalizing the implementing legislation, NOAA has been challenged in being able to fully implement the amendments to the favorable outcome of our industry. And while we are operating under a Memorandum of Understanding, finalizing this legislation will enable us to fully implement the amendments, again, to the benefit of our industry. Thank you.

Mrs. RADEWAGEN. Thank you, Mr. Chairman. I yield back the balance of my time.

Mr. BENTZ. Thank you, Mrs. Radewagen. The Chair recognizes Mr. Case for 5 minutes.

Mr. CASE. Thank you, Mr. Chair. I am going to address the tuna treaty bill, as well, Dr. Kryc. I am very happy to co-sponsor this with my colleague, Mrs. Radewagen.

Just to follow up on her questions, first of all, I totally support the bill, obviously. I am a co-sponsor, a co-introducer of it. We want this treaty to succeed. We want the regulations to adjust to the treaty. We are all trying to do the same thing, which is to preserve the American purse seine fleet, and allow them to compete fairly out there in the Pacific.

But as you take a look at the catch statistics over the last couple of years, it does show a decline in catch in both the high seas and also in the EEZs themselves, which I guess is puzzling to me, given the treaty. I think I can explain the decline somewhat on the basis that we have seen the fleet itself decline fairly precipitously in the last 3 years. In fact, if you look at Mr. Gibbons-Fly's testimony, I think he has it down from 34 to 14 vessels in the last 3 years. So, that, obviously, would have something to do with your catch.

But besides just the decline in the fleet, which is alarming, are there further issues with our access to other countries' EEZs that are being solved by this treaty and by this particular legislation, and/or that we have not covered yet that we need to go back and cover?

Do we have full access? His testimony is to the effect that especially the American Samoa fleet still faces some unusual and administrative barriers in other countries' EEZs, which I thought the treaty was trying to solve for. So, I am a little puzzled by the decline in catch, even though we have, obviously, seen the fleet decline.

Dr. KRYC. Thank you, Congressman Case, for your question. I appreciate your concern for our U.S. fleet operating in the Western Central Pacific, and acknowledge the change in our fleet over the past several years.

With respect to the decline in catch in the most recent past, I am not quite sure which time range you are speaking to. But, of course, we also had the confounding impacts of the global pandemic which caused some fishing declines globally.

Mr. CASE. Yes, my stats are from you guys through 2022.

Dr. KRYC. OK. We acknowledge, yes, the change in the fleet from 40 at its maximum to 13 at this time.

The treaty ensures access for our fleet to the Exclusive Economic Zones of the Pacific Island parties, as negotiated, which expands the opportunities for our fleet to operate both in our own EEZs and also on the high seas. And all of those provide the opportunity to maximize opportunity for the fleet, and maximize the landings that then come to American Samoa and support the cannery there.

Mr. CASE. OK. I guess I will follow up with Mr. Gibbons-Fly. My question is to follow up on the comment that, even with the treaty, we are still facing barriers to entry in the EEZs of our partner countries. So, that is of concern.

And then, correct me if I am wrong, but as I understand it, one of the areas that is the most important in this bill and in the treaty renegotiations themselves is that we have been subject to a license regime on the high seas, as opposed to other countries, which, obviously, disadvantages us. Are we going to be on the same level playing field after this bill, as any other country on the high seas themselves?

Dr. KRYC. Yes, Congressman, and thank you for raising that important issue. This is one of the primary reasons to move this legislation is to ensure that access to the high seas for our fleet.

Mr. CASE. OK. And then finally, clearly, whether we have treaties or not, we are all facing IUU fishing everywhere, especially by some of the other countries in the Pacific Rim. What does the treaty say, if anything, directly or indirectly, about curbing IUU fishing?

Are there understandings between us and our partner countries that we will cooperate in terms of a more forceful action on IUU fishing in the EEZs of these countries?

Dr. KRYC. I will keep this brief. The United States has a highly managed fleet, and we raise the standards of everyone around us when we are operating. And because we are so well managed, we are able to use that to help raise those standards in international negotiations, and that helps to address the IUU fishing issue.

Mr. CASE. OK. Thank you very much.

Mr. BENTZ. Thank you. The Chair recognizes Mr. Rutherford for 5 minutes.

Mr. RUTHERFORD. Thank you, Mr. Chairman. I have to tell you, our anglers back home, their main lament right now is, NOAA closed our seasons because there weren't enough fish. Now, they are closing our season because there are too many fish being caught and discarded.

So, one of the things that I would like to go to, Doctor, is in your own report on stock assessment, page 5, it says this is all about, and this goes back to Mr. Wittman's point, scientific uncertainty. In fact, the data uncertainty that is highlighted here is the exact reason that we are restricting red snapper, and that is commercial discards and recreational discards. That is the data uncertainty in your biomass determination.

And then, of course, population dynamic uncertainty under sources of recruitment and environmental changes.

In light of all that, I want to ask you this question. Does my bill stop the implementation of anything in the Council's recommendation to stop NOAA's perceived over-fishing? Is there anything in my bill that stops you from going forward with what the Council already passed?

Dr. KRYC. Thank you for that question, Congressman. NOAA recognizes the issues associated with the discards.

Mr. RUTHERFORD. I only have 5 minutes. Is there anything in my bill that stops the Council from going forward with the recommendations to stop over-fishing that you have already implemented?

Dr. KRYC. NOAA will be taking the recommendations from the Council meeting, and looking at those to make sure that they are consistent with Magnuson-Stevens, and then moving forward.

Mr. RUTHERFORD. The answer is no. There is nothing in my bill that will stop you from moving forward with those Council recommendations.

Now, let me ask you, you have not recommended closing the bottom. Closures are not the recommendation right now, is that correct?

Dr. KRYC. That is correct. The Council has not recommended——

Mr. RUTHERFORD. OK, but can you tell me why?

Dr. KRYC. I think that they took the best scientific advice and at this time decided not to proceed with a time area closure as part of the management tools available to them.

Mr. RUTHERFORD. OK, looking at your biomass calculations and the uncertainty that is built into that that you recognize, it is in your own report on page 5, do you think that NOAA's abundance data is reliable?

Dr. KRYC. Thank you, Congressman. I am not familiar with the exact report you are referring to, so I can't address that specific question at this time.

Mr. RUTHERFORD. OK. Well, I will show it to you.

Let me ask you this. Do you think that NOAA's data on recreational discards is reliable?

Dr. KRYC. Thank you, Congressman. I think this is an issue that we continue to need more information on, and I think the——

Mr. RUTHERFORD. I am going to stop you there because you just said exactly what this bill is all about, getting you more data, getting you good data, reliable data so that when you make these assumptions about biomass, we can be much closer to the truth.

And, Mr. Chairman, that is what this bill is all about. It simply says don't close the bottom until this Great Red Snapper Count is completed, which we have funded in a very bipartisan way, $5 million over the last 4 years to have this third-party, independent study. All it says is don't close the bottom until we get that information in, and you can then add that into your data.

Look, I believe if you have good data you can make better decisions. And that is all I want to do is help you make better decisions with good data, not the data that you recognize is not data uncertainty, commercial discards, recreational discards, population dynamic uncertainty. You have a lot of uncertainties built into your models, and I understand that. It is not an easy issue. That is why this count is so important.

And I think some other things can be done, as well, but that is why this bill needs to pass. And I thank you for your time.

Mr. BENTZ. Thank you, Mr. Rutherford. The Chair recognizes Mr. Carl for 5 minutes.

Mr. CARL. Thank you, Mr. Chairman.

Real quickly, is it Guertin? Did I pronounce that correctly?

Mr. GUERTIN. Guertin, sir.

Mr. CARL. Guertin, OK. Well, I am from the South, so we butcher everything, so I am told.

On the black vulture, I have talked to a lot of ranchers, especially out West obviously, we don't have them in south Alabama that I am familiar with. But ranchers lose a lot of their livestock calving to these vultures. Has any thought been given to reimbursing these ranchers for their losses?

Mr. GUERTIN. Thank you for your question, Congressman. At this point, the legislation does not address any type of depredation compensation program. That is certainly something the author of the bill could look at, and there are similar programs for wolf depredation and other things that have been enacted into law.

Mr. CARL. These ranchers make a living every year from a breeding stock that keeps moving up. So, I would suggest we look at something like that. If we are going to tell them they can't protect their livestock, we ought to at least try to help.

Ms. Kryc, the Great Red Snapper Count that was done in the Gulf, do you know what year that was actually done?

Dr. KRYC. In the Gulf? Yes, that just concluded. And the results of the Gulf Great Red Snapper Count were integrated into management decisions this year.

Mr. CARL. OK. Did they pull a net on that count, or did they actually count bottom fish?

Dr. KRYC. It was a very comprehensive study. I can't speak to the specific methodology there, but it did reveal a great deal about the status of red snapper in the Gulf.

Mr. CARL. OK. Let me share a little bit of my sarcasm with you. I come from a private business background, and we don't make money unless we can figure out ways to save money and expand our market. Government doesn't work that way. Government doesn't care about cheap. They don't care about making a profit. They focus on trying to expand their apartments. So, when these studies come up and you ask for another $5 million to do a study, in my mind I get sarcastic and want to push back on it, because you have created another problem that may or may not exist.

How did we use the snapper count that we did 4 or 5 years ago? Why did we not use it in the first 2 years? Because it was finished in the first 2 years, but we drug it out for 3 more years and we didn't use it. Why?

Dr. KRYC. Thank you. I think this is a really beautiful case of how the science informed a management decision to result in an increase in the quota. The Council made the decision to extend the timeline of how to use that data based on how they were analyzing that data, and the need to then make decisions on that——

Mr. CARL. We issued a second set of money for that, correct?

Dr. KRYC. That I will have to get back to you on.

Mr. CARL. I believe we did. To my knowledge, these tests were ran by pulling nets over the top of reefs. These are reef fish that are not going to be floating around, getting exposed very much.

When the University of South Alabama did their test, the Alabama Department of Wildlife put in their own software. I know Louisiana—Garret is here—Louisiana has their own. We did our own count, too, and we came up with much, much more, a higher count, a better count than what you have. But the two have come together, and yet you have cut back on the fish. So, we are proving we have more. You are using your numbers. You think we would match somewhere in between. But in reality, you cut back even further.

Tell me the law that tells you that you have the right to tell people what they can catch and not catch?

Dr. KRYC. Thank you, Congressman, for that question and for recognizing the state's role in managing red snapper.

The difference in methodologies is being calibrated and will be reflected in decisions regarding the quota later this year. And that does recognize, as you said, the difference between——

Mr. CARL. I am sorry, I am running out of time. But we impose the shark, you can't catch a snapper now for the sharks taking them off your hooks. That is the problem we are having in the Gulf all of a sudden.

So, I would propose that NOAA let nature be nature, and let—hey, Sheriff, move your head, move your head.

[Laughter.]

Mr. CARL. I would propose that NOAA actually invite the fishermen and the people that do it on a daily basis versus just your professionals that do these counts from systems that are outdated and long gone. Thank you for your service, though.

Thank you, Mr. Chairman.

Mr. BENTZ. Thank you, Mr. Carl. The Chair recognizes Mr. Neguse for 5 minutes.

Mr. NEGUSE. Thank you, Mr. Chairman, I appreciate it. Thank you for holding this hearing.

And I know we are all thinking of our friend, Ranking Member Huffman, who is dealing with an illness, but I am certainly glad to have the opportunity to talk today about an issue that I have been working on for several years, and that is the Upper Colorado and San Juan River Basin recovery programs.

These programs are a model of successful partnership and collaboration across agencies, states, and with both Federal and non-Federal partners in my state of Colorado, in addition to Utah, Wyoming, and New Mexico. They work to recover and protect four species of endangered and threatened fish while also providing Endangered Species Act compliance for 2,500 water projects. They are a model for successful Endangered Species Act conservation efforts using the best available science.

And, in fact, two of these species have even been downlisted to threatened status as a result of the work completed by the programs. It is why I have been a champion on this effort for some time. In the last Congress, the 117th Congress, I introduced bipartisan legislation along with Senator John Hickenlooper in the U.S. Senate to reauthorize and continue Federal funding for this these critical programs.

And these critical programs in particular, that legislation was marked up, it was heard in this Committee, it was marked up by the Full Committee, sent to the House Floor, and ultimately passed the House, the Senate, signed by President Biden.

We have reintroduced legislation that would again reauthorize this critical program for a longer period of time, and also addresses the funding needs. Because the reality is we have heard from a variety of stakeholders at the local level that more funding is needed to ensure that this program operates successfully. There are, of course, both Federal appropriations and non-Federal contributions, but the Federal appropriations piece is crucial.

And what I would say, Mr. Chairman, is I hope that he will consider marking up my legislation to reauthorize this program,

the companion legislation to Senator Hickenlooper and Senator Romney's legislation in the U.S. Senate, because, absent that increased funding level, I fear that this program will not operate as successfully as it has in the past.

Now, I will note with some irony that, unfortunately, I think some of the folks who are championing the particular measure that we are considering today, which is emulated after the bill, as I said, that I introduced in the last Congress and that I have also introduced in this Congress, are the same individuals fighting to pursue CRAs on the ESA, literally, as we speak, as we consider those measures on the Floor and, I might add, also advocating for deep cuts to the Department of the Interior's appropriation bill for this next fiscal year. It is ironic and, in my view, hypocritical to seek to reauthorize a program because, of course, that is what we are talking about in this instance, while simultaneously seeking to defund it on the appropriations side.

If you care about reauthorizing this critical program, the Upper Colorado and San Juan River Basin recovery programs, and I certainly care and, on a bipartisan basis, many of my constituents care, then you ought to also care about ensuring that the appropriation is there, as well. And I would implore my colleagues who support this program to support the appropriation behind it, as well.

And I think it is a fair question for any citizen of my great state of Colorado, and certainly of the press to ask of any Member who purports to support reauthorization of the Upper Colorado and San Juan River Recovery Programs if they are willing to stand up and support the corresponding appropriation. And I suspect they will find that, while I certainly support that, that many others do not.

In any event, I am grateful for, of course, the Administration witnesses that are here today. I have no questions for either of you. I appreciate your service to the country, and I know we have a number of local stakeholders who have made the journey to Washington, DC, and I am grateful for them coming here, to our nation's capital, to testify on this important program.

Again, I would urge the Chairman to consider a hearing on the legislation that I have introduced with Senator Hickenlooper. And with that, Mr. Chairman, I will yield back the balance of my time.

Mr. BENTZ. Thank you, Mr. Neguse.

Mr. Graves, you are recognized for 5 minutes.

Mr. GRAVES. Thank you, Mr. Chairman. I appreciate you all having this hearing today, and I want to thank the witnesses for being here.

Dr. Kryc, I want to thank you for responding to Mr. Carl's questions related to the Great Red Snapper Count. And I appreciate you, I guess, respecting the integrity of that analysis. I think that I agree with Congressman Carl in that that was a very thorough exercise that was done by some impressive academics that really went to great lengths to ensure the accuracy of the analysis. So, I do appreciate you respecting that.

I do have concerns, similar to Congressman Carl, in that there seems to be disparity between the findings of the Great Red Snapper Count and the allocation that National Marine Fisheries has allowed for the Gulf States. And it is frustrating because we

are in a scenario where they effectively said there are triple the red snapper, yet we had, as I recall, about a 10 percent increase in allocation, which I am not saying we need to triple the allocation, but it seems like 10 percent is significantly below what it should be.

Look, that analysis was the most thorough analysis that was ever done. And Congressman Carl correctly noted that the states are investing millions of dollars in improved data collection, trying to get this right because we want to sustainably manage these fisheries. I am just wondering if you could shed any light on the disparity between the findings of the Great Red Snapper Count and the increase in allocation that was allowed for fishers to harvest.

Dr. KRYC. Thank you, Congressman Graves. Yes, the Great Red Snapper Count in the Gulf did reveal higher numbers, but it also revealed that the productivity of the red snapper is less. So, there was a dichotomy.

And the most recent data coming out of the collections is bearing the science true in that the increase that was approved is probably the limit at which it should be to continue maintaining a sustainable fishery there. The science will continue to inform those decisions and management practices with the goal of ultimately increasing that over time.

Mr. GRAVES. I am struggling with this a little bit. So, population was triple. Unless red snapper have discovered birth control technology, I am having a tough time understanding how you could have that many more fish, but then productivity would be that much lower. That seems, again, contrary to what common sense would indicate. Could you shed any light on that?

Dr. KRYC. Thank you. My understanding is that it is to do with the age range of the fish. So, until they reach full maturity, they are not able to be as productive.

Mr. GRAVES. All right. If you could provide some additional information on that, I sure would appreciate it.

Again, it just seems contrary to common sense there. I understand the age issue, but I am not sure that that is what the Great Red Snapper Count found in regard to the additional fish.

Another issue I want to quickly bring up is I appreciate Congressman Wittman's leadership efforts on the depredation issue related to sharks. I want to ask a quick question. Doesn't Magnuson-Stevens, isn't it designed to ensure the sustainability of fisheries?

I mean, that is sort of the objective. That is a fundamental of the Magnuson-Stevens Act, is that accurate?

Dr. KRYC. Congressman, thank you, yes, based on the best available science.

Mr. GRAVES. Is there anything in Congressman Wittman's legislation that would undermine that fundamental objective of Magnuson?

Dr. KRYC. Congressman, the Agency continues to pursue the best available science to address the issues associated with shark depredation. So, what we see between the bill that Congressman Wittman introduced is just a great deal of overlap with the work that we are already doing.

Mr. GRAVES. I want to highlight that: overlap that you are already doing, rather than, as some allegations were raised today, that his bill would result in killing a bunch of sharks and undermine the survivability of the species or sustainability, because that allegation was lodged earlier. And I just want to be crystal clear that is not correct, that the fundamentals of Magnuson would still apply. Congressman Wittman's bill does not undermine that. What it does is it is designed to ensure greater ecosystem management.

Last thing on this, Mr. Chairman, I just want to make note that one of the most frustrating things in the world is when I bring a fish up, and I know it is going to be much bigger than the fish that Congressman Carl caught, but the bottom half of the fish is missing because the shark got it. It is still bigger than Jerry's fish, but can you just imagine how much bigger it would be if I had the whole fish, as opposed to that shark taking the bottom off?

And I know that you are with me on this, so you don't need to respond. But I did want to just highlight that, and this issue does need to be addressed.

I yield back.

Mr. BENTZ. Thank you, Mr. Graves.

Mr. Magaziner, you are recognized for 5 minutes.

Mr. MAGAZINER. Thank you, Chairman. I come from Rhode Island, and for generations Rhode Island has been known for our coastline, our abundant fishing, and our strong maritime economy. Now, climate change is impacting our state's natural habitats, leaving our coasts more vulnerable to natural disasters, and contributing to significant biodiversity loss that is impacting our commercial fishing industry.

As sea levels rise and beaches erode, we risk losing even more valuable habitats, homes, and businesses, and people's livelihoods. So, we have to redouble our efforts to preserve and restore coastal habitats so that future generations can enjoy the same benefits that Rhode Islanders have for centuries. The Fish and Wildlife Service has been doing this work, and I thank you for it, through the Coastal Program, a unique partnership between Federal officials and local communities to voluntarily restore protected habitats.

The Fish and Wildlife Service, in just the last 12 years, has conducted more than 4,900 conservation projects, including 51 in Rhode Island, my home state, and restored more than 600,000 acres of habitat across the country, including 417 acres in Rhode Island. This has supported the full recovery and downlisting of at least 15 species nationwide, and prevented at-risk species that call Rhode Island home, such as the New England cottontail and the saltmarsh sparrow, from becoming endangered.

The program's success is in large part thanks to the Fish and Wildlife Service's ability to work closely with local partners on the ground. In my district, for every $1 put in by the Coastal Program, the Fish and Wildlife Service attracted an additional $73 in investment from local partners. I will say that again, because you don't hear that kind of a ratio very often: $1 put in for the Fish and Wildlife Service draws an additional $73 in investments from local partners.

The Coastal Program's approach is evident on the ground in its collaboration with local partners. Fish and Wildlife personnel have worked closely with organizations like Save the Bay, the Town of Charlestown, the town of Westerly, and others to restore the Ninigret saltmarsh. Salt marshes, by the way, shield and protect coastal areas from storm surges, and 70 percent of all commercial fish depend on them for at least part of their lives.

Climate change and habitat restoration are complex, long-term challenges, so codifying the Coastal Program will ensure that the Fish and Wildlife Service can provide sustained and proactive attention to these issues, and help protect coastal ecosystems for decades to come.

Mr. Guertin, can you just talk a little bit about the flexibilities in the Coastal Program that allow Fish and Wildlife Service to meet the specific needs of each community? Because, obviously, a community in Rhode Island might have very different needs than in Maine, or in Oregon, or in Michigan. So, how do you work with local partners to tailor the approach in an appropriate way?

Mr. GUERTIN. Thank you for your question, Congressman.

Sure, the Coastal Program is one of our flagship programs. It promotes a vision for collaborative, non-regulatory, voluntary partnership work throughout the coastal regions of the United States. We partner with state fish and game agencies, tribal partners, private landowners, other entities. You mentioned the incredible leveraging opportunities we can put on the ground with that, and certainly in Rhode Island that incredible work at Ninigret saltmarsh important to the saltmarsh sparrow is a very key species for us in that ecotype up there.

But this is all about developing a shared vision for the landscape, bringing the partners together, leveraging each other's resources, and using the best available science to help us tackle sea level rise, provide additional access for recreation and commercial fishers, and do a better job of sustaining that coastline for future generations.

Mr. MAGAZINER. Thank you. And one other aspect of the program that I want to make sure we highlight here and that we support is, you are not just providing financial assistance, you are also providing technical support and capacity building for these local partners on the ground so that they can continue to maintain this work going forward. Can you talk a little bit more about how the technical assistance side of the program works?

Mr. GUERTIN. Sure. We can provide the geospatial mapping tools. We can provide biologists to help partners develop some of these projects. We can provide the horsepower to get those projects permitted and stood up and implemented on the ground. And we can provide a lot of training and technical assistance to state employees, private landowners, and others.

And then we can also tap into the wealth of expertise from the other Federal and state agencies to bring capacity in as needed.

Mr. MAGAZINER. Thank you. Terrific program, and I hope that we will all continue to support it on a bipartisan basis.

I yield back.

Mr. BENTZ. Thank you, Mr. Magaziner.

Mr. Rose, you are recognized for 5 minutes.

Mr. ROSE. Thank you, Chairman Bentz, Ranking Member Huffman, and thank you for the opportunity to address the Committee. I have a few statements I want to make about H.R. 1437, the Black Vulture Relief Act of 2023.

I was proud to introduce the Black Vulture Relief Act of 2023 with my friend from Florida, Representative Darren Soto, and I applaud the Subcommittee for attaching my bill to today's hearing.

This bill would allow farmers and ranchers to lethally take black vultures without a sub-permit. This is a common-sense measure that responds to robust black vulture population numbers and rising rates of depredation on livestock.

Because the black vulture is currently listed under the Migratory Bird Treaty Act, the Federal permit is required to engage in lethal take of the bird. Permits are issued by the U.S. Fish and Wildlife Service to states, and states issue sub-permits to producers. Sub-permits allow for three takes, with the option to go up to five in some states. This is not adequate, given the sheer numbers of threats that producers face from this abundant species.

This bill would remove the requirement for a sub-permit, allowing farmers and ranchers to take black vultures as needed. This bill preserves the requirement for reporting of incidental take on the back end, and allowing wildlife agencies to continue to monitor the species numbers.

I am pleased to report that numerous groups are supporting this legislation, including the Tennessee Farm Bureau Federation, the National Cattlemen's Beef Association, the Tennessee Cattlemen's Association, the Florida Cattlemen's Association, and the Oklahoma Cattlemen's Association.

I would particularly like to draw the Committee's attention to a letter I received from the Tennessee Farm Bureau in support of H.R. 1437. In the letter, the Tennessee Farm Bureau Federation stated that, "It should be a fundamental right for farmers to protect their livestock when threatened by predatory actions of black vultures, and we believe this legislation takes a vital step in the right direction." I wholeheartedly agree that it should be a right for farmers to be able to protect their livestock when threatened by black vultures with a requirement for reporting, as my bill requires.

I have heard numerous horror stories from my constituents about how black vultures injure and kill pregnant cows and their calves in the most barbaric and gruesome ways. Indeed, I have experienced that on my own beef cow-calf operation.

In addition to the unnecessary and cruel suffering livestock endure at the hands of black vultures, there is also a major financial impact to producers who suffer from black vulture depredation. My bill helps to stem those financial losses.

I also want to address some of the concerns of the U.S. Fish and Wildlife Service. I have reviewed the written testimony of Mr. Stephen Guertin, the Deputy Director for Policy at the Fish and Wildlife Service, and I was profoundly disappointed to learn that Fish and Wildlife is opposed to this bipartisan legislation. While I disagree with much of Mr. Guertin's written testimony, I want to focus on a couple of specific points I particularly disagree with.

The Fish and Wildlife Service argues that annual reporting requirement is not sufficient. I have heard time and time again about increasing numbers of black vultures, and I firmly believe that a once-a-year reporting requirement is sufficient for monitoring population management while also balancing against overly burdensome reporting requirements for producers.

Additionally, Mr. Guertin's written testimony states that, "By authorizing take for individual producers without a permit, H.R. 1437 would also limit the opportunity for the Service to recommend other mitigation methods which may be more effective in addressing and removing depredating vultures."

I want to be clear on this point. There is absolutely nothing in my bill that limits the ability for the Fish and Wildlife Service to make recommendations regarding other mitigation methods for those affected by black vultures.

I will, however, note that Mr. Guertin's testimony states that the Fish and Wildlife Service is open to working with me on this issue. I appreciate this offer, and look forward to engaging with Fish and Wildlife on this important issue.

In closing, I greatly appreciate this Committee's leadership on the issue of black vulture depredation, and I yield back the balance of the time.

Mr. BENTZ. Thank you. The Chair recognizes himself for 5 minutes.

Dr. Kryc, I am most interested in the approach NOAA uses on a bill such as H.R. 4051, because it is an appointment of a task force to look into an issue that you indicated overlaps substantially with NOAA's jurisdiction.

So, I guess my first question would be, why do you think that this task force is necessary? Doesn't it reflect a shortcoming on NOAA's part?

And if not, then why are you not objecting strenuously to the bill if it is not necessary?

Dr. KRYC. Chairman Bentz, thank you for your question. I appreciate that.

As I think is stated in our testimony, we are willing to work with the Committee and the Members on this bill. We did just want to register our concerns that we, through a number of mechanisms, are taking a deep look at depredation, and just see a number of overlaps, and wanted to make sure that those were addressed.

Mr. BENTZ. Let's go back to your phrase, the "deep look." Tell me what that means. Define it for me.

Dr. KRYC. Yes. We are looking through a number of different mechanisms, including the bycatch reduction engineering program. We are using genetic sources of scientific information, looking at new engineering technologies, a broad spectrum of ways to understand depredation.

To date, we don't have enough information about who is eating who, who is participating in this to make solid management decisions that would allow a reduction in depredation. What we do know is that for solutions that are effective in the short term, that the animals are capable of adapting and acclimatizing and adjusting to those technologies.

So, it remains confounding, and requires a great deal more research to understand how to minimize and mitigate the impacts of depredation.

Mr. BENTZ. Right, and I have seen that your agency is challenged with any number of difficult scientific issues. And this is evident in my discussions with your agency regarding studies being done in the Pacific concerning the survival or not of salmon species that come down various rivers on the West Coast.

And my question to you is, based on what we are looking at when it comes to these two shark populations, first of all, how do you decide how you are going to focus on these problems?

And then secondly, how do you tell the interested parties, such as those here today, when you are going to finish these studies?

Or is this a kind of an ongoing, forever sort of a study that never quite gets done because of all kinds of explanations such as the ones you just provided?

In other words, when will we have an answer from you as to the sharks?

Also, and this is off today's agenda, but I would like to have the same answers regarding the Pacific. But today, we are talking about sharks. So, when will we have an answer?

Dr. KRYC. Thank you, Congressman. I appreciate that question. As a scientist myself, I will share that often the information we gain as we look into things introduces new questions that then we continue to follow.

Mr. BENTZ. And that process could go on for a very long time. So, just, please, 1 year, 2 years, 10 years? When?

Dr. KRYC. For a specific depredation?

Mr. BENTZ. Yes,

Dr. KRYC. I cannot give you a specific time frame for when we would have a definitive answer on that.

Mr. BENTZ. I am not surprised, but thank you for being here today, and I appreciate your work. It is a challenging job.

Mr. Guertin, how much is the cost of a permit for the rancher if they want to take advantage of your program to kill these black vultures?

Mr. GUERTIN. It was $100 before we did the sub-permits to the entities in each state. And then there is a various cost structure in each state, as well.

Mr. BENTZ. It has been suggested that your system doesn't work well, that the computer program is very, very difficult to use. Is that true?

Mr. GUERTIN. I admit, sir, it has been clunky at times. We are investing a lot in our new e-permit system, which is streamlining a lot of that.

But in any case, we are giving these block permits to each entity in the state. They are then administering the actual allocation of the take to the individual producers. So, that would be perhaps more of a question for us to work on with our state partners.

Mr. BENTZ. Thank you. My time is expired.

Ms. Porter, you recognized for 5 minutes.

Ms. PORTER. Thank you.

Dr. Kryc, can you share why it is important for Fishery Management Councils and the National Marine Fisheries Service to base

regulations and management decisions on the best available science, not delaying actions for years until new data becomes available, which to me, seems an awful lot like an effort to just delay new regulations?

Dr. KRYC. Thank you, Congresswoman.

I think the tenant of using the best available science for decision-making has ensured that the Magnuson-Stevens Act has achieved many of the objectives it set forth to do and achieve in rebuilding stocks and assuring the sustainable management of our fisheries, which has made our fishery sector successful and something that we can maintain in the long term.

Ms. PORTER. When new data, Dr. Kryc, from the Great Red Snapper Count is available, will that be used in NOAA's fisheries management decisions?

Dr. KRYC. Thank you, Congresswoman. Yes, the intent for the South Atlantic Great Red Snapper Count is to use the information, similarly as was done in the Gulf, to inform management decisions regarding the red snapper in the South Atlantic.

Ms. PORTER. OK, moving on to the SHARKED Act, this bill duplicates an existing report that NOAA already submitted to Congress. It also adds a section on shark depredation research projects into the Magnuson-Stevens Fishery Conservation and Management Act without authorizing additional funding. This means funding for stock assessments, bycatch regulation, habitat conservation will be redirected toward the niche issue of shark depredation.

Is it realistic to expect NOAA to complete these research projects without additional funding?

Dr. KRYC. Thank you, Congresswoman. It is true that, should this legislation move forward, NOAA does not currently have the resources available to implement it. And as I have stated, since we are already doing so much on depredation at this time, we just see a lot of overlap. So, we have the funding we need for the studies we are currently doing, so thank you for recognizing——

Ms. PORTER. So, we don't need this bill. It will be difficult to actually deliver on because of the funding restrictions.

So, House Republicans made the rules, and now it is up to you to figure out how to balance constituent needs with your own bad politics.

I yield back.

Mr. BENTZ. Thank you, Ms. Porter.

Mr. Lawler, you are recognized for 5 minutes.

Mr. LAWLER. Thank you, Mr. Chairman and esteemed members of the Committee. I am glad to be here with you today to advocate for the passage of the New York-New Jersey Watershed Protection Act, a vital piece of legislation that aims to safeguard one of the most densely populated and yet habitually under-funded watersheds in the United States.

As one of a number of representatives from New York and New Jersey signed onto this legislation, I can say firsthand that the New York-New Jersey watershed faces a myriad of challenges, from legacy pollutants caused by old manufacturing plants to ongoing and escalating flood risks in river villages and towns to a lack of public access for many, our Hudson Valley watershed and,

indeed, the entire New York and New Jersey watershed needs attention and assistance.

In the 17th district, replicating the successful model already deployed across Federal watersheds nationwide, we could see significant improvement of water quality for communities all along the Hudson River, from Piermont and Tarrytown to Peekskill, Cold Spring, and Haverstraw, among others.

The New York-New Jersey Watershed Protection Act would streamline and finance local restoration initiatives in my district and all along the Hudson, with the goal of improving water quality, preserving wildlife and their habitats, augmenting public access, and bolstering recreational industries along the Hudson and other waterways.

Last year, we saw this same piece of legislation pass the House as part of the National Defense Authorization Act. This year, with the support of a bipartisan coalition of 14 co-sponsors, all 4 New York and New Jersey Senators, and over 50 local organizations, we aim to push it across the finish line through the Senate and to the President's desk.

This Act is not just about protecting a watershed. It is about securing our future, improving our communities' resilience, and preserving our ecosystems for generations to come. It is a testament to our commitment to environmental stewardship, and I look forward to its passage.

Mr. Guertin, in your role at the U.S. Fish and Wildlife Service, could you provide insights into how your agency's expertise and experience in managing Federal watersheds will contribute to the success of the restoration program proposed in the New York-New Jersey Watershed Protection Act?

Mr. GUERTIN. Thank you for your question, Congressman. We are a Wildlife and Fisheries Management Agency, so the expertise we would bring would revolve around many of the wildlife and fisheries species that depend on the watershed.

We do a lot of habitat restoration work, a lot of outdoor recreation planning. We can support a very vibrant outdoor recreation economy with that kind of work. Hunters and angling opportunities. We do environmental education, and we have a lot of programs already operating in the watershed, including three National Wildlife Refuge units, two urban partnerships. Our Partners for Fish and Wildlife Program works with private landowners, as well as the Hudson Highlands Conservation Act we implement with the Forest Service.

So, we would focus on outdoor recreation, environmental education, habitat restoration. A lot of the work around our trust species, striped bass, sturgeon, waterfowl, and other animals like that.

Thank you for your question, sir.

Mr. LAWLER. As you know, in the Hudson we have had a lot of legacy pollutants. What work can you do to help remediate existing pollutants while preventing further contamination to our wildlife?

Mr. GUERTIN. Our mission would revolve around habitat restoration projects, watersheds, headwater streams. This watershed extends from the Mohawk River up into the Adirondacks. It reaches everything from saltwater fish to brook trout in the head-

waters. So, we would do habitat restoration work, all with a focus of healthy, sustaining populations of wildlife and fisheries resources.

Mr. LAWLER. With a budget allocation of about $20 million annually for the watershed restoration, how would you be able to use those funds effectively?

Mr. GUERTIN. If enacted and appropriated, Congressman, we would use this funding to bring in additional private land biologists to work on voluntary conservation purposes. We could leverage our ability with large landowners, other agencies, the state to bring in technical assistance. We can do mapping and modeling for key species' needs.

We can also do a lot of our work that we have done in similar watersheds, like the Delaware and Chesapeake Bay, to connect with urban populations, environmental education. We can do a lot of outdoor recreation opportunities for kids, things like that, and a lot of just partnership building with the people in the watershed who are interested in this conservation project.

Mr. LAWLER. I appreciate it. And thank you, Mr. Chairman, for allowing me to waive on, and I encourage all my colleagues to support this important legislation.

Mr. BENTZ. Thank you, Mr. Lawler, and I want to thank the witnesses for their valuable testimony and the Members for their questions.

Members may have some additional questions for the witnesses, and I ask that you respond to these in writing. This panel is now dismissed. Thank you.

And I will recognize our third panel as they move up.

I think we are ready to start. Let me recognize our third panel: Mr. Charlie Besher, Chair of the Property Rights and Environmental Management Committee with the National Cattlemen's Beef Association in Patton, Missouri; Mr. Steve Wolff, General Manager of the Southwestern Water Conservation District in Durango, Colorado; Mr. Gene Shawcroft, General Manager of the Central Utah Water Conservancy District in Orem, Utah; Mr. William Gibbons-Fly, Executive Director of the American Tuna Boat Association in San Diego, California; Ms. Genevieve Genest, Donor Relations Manager for the Galveston Bay Foundation in Kemah, Texas; Mr. Seth Atkinson, Attorney for the Quillback Consulting in Santa Cruz, California; Mr. Jack Graham, Captain of Afishianado Charters in Kill Devil Hills, North Carolina; Ms. Jessica McCawley, Division Director of the Division of Marine Fisheries Management with the Florida Fish and Wildlife Conservation Commission in Tallahassee, Florida.

Let me remind the witnesses that under Committee Rules, they must limit their oral statements to 5 minutes, but their entire statement will appear in the record.

To begin your testimony, please press the "talk" button, and please move close to your microphone. In this hearing room it is hard to hear if you are more than about 3 inches from it.

We use timing lights. When you begin, the light will turn green. When you have 1 minute remaining, the light will turn yellow. And at the end of 5 minutes, the light will turn red, and I will ask you to please complete your statement.

I will allow all witnesses to testify before Member questioning. With that I now recognize Mr. Besher for 5 minutes.

STATEMENT OF CHARLIE BESHER, PROPERTY RIGHTS AND ENVIRONMENTAL MANAGEMENT COMMITTEE CHAIR, NATIONAL CATTLEMEN'S BEEF ASSOCIATION, PATTON, MISSOURI

Mr. BESHER. Thank you, Chairman Bentz, Ranking Member Huffman, and members of the Subcommittee for inviting me to speak today on the impact of the black-headed vultures on family-owned cattle operations like mine.

My name is Charlie Besher. My wife Donna and I are a cow-calf operator based in Bollinger County, Missouri. We raise registered Hereford cattle in the foothills of the Ozarks. We have grown our operation over the years with a priority on soil health, water quality, rotational grazing through sound environmental stewardship. I want to be able to give my grandchildren what my grandpa left to me.

A half a century ago, black-headed vultures were declining due to decades of trapping and exposures to DDT. They were federally listed and take was prohibited. Today, the bird has rebounded and become an abundant species across the country. Their population has steadily grown by 3 percent every year from 1966 to 2019. The black-headed vultures globally breeding population is 190 million strong, prompting partners in flight to downgrade the species to low conservation concern.

As their population grows, so does the species' harmful impact on cattle production. Death loss of cattle due to birds has been confirmed in 18 states across the South and the Midwest. From 2015 to 2019, requests to the Fish and Wildlife Service for depredation permits to help control the black-headed buzzards have increased by 26 percent. Last year alone, USDA APHIS was called upon to disperse 84,000 black-headed vultures and euthanize 13,000 across 22 states. Because producers are not permitted to take enough of the birds on their own, the Agency is forced to deal with this, and with a lack of staff to do so at that scale.

Black-headed vultures are opportunistic predators. They target calves, particularly when they are partially emerged from the birth canal. Even for the most experienced farmer, these kills are a very gruesome way to see an animal go, especially a baby calf. The birds take an average of 3½ hours to actually kill their prey. They kill a calf by first puncturing and consuming its soft tissues, the eyeballs and the anus. Next, they often start on the rear flank, akin to the groin of a human, in order to get easy access to the calves organs.

Not only is this gruesome, but it is also financially costly to producers. There is an immediate financial loss of the calf's death, and ongoing financial loss due to stress, reduced weight gain, and injuries to the mother cow.

The Black Vulture Relief Act is bipartisan and soon to be bicameral. It does not amend the Migratory Bird Treaty Act. Rather, it is a stand-alone bill that will allow producers to lethally take birds without a sub-permit when there is an immediate threat to livestock.

That is an important note. We are not seeking to eradicate the species. They play a vulnerable role in the ecosystem, but they are over-populated. And where this is a threat of calf loss, we need to be able to act.

Permits are issued through Fish and Wildlife Services to states. States, in turn, issue sub-permits to producers. Sub-permits only allow for three takes a year, with the option to go up to five in select states. Producers are regularly seeing these birds descend in flocks of as many as 50. Taking three birds one time per year is not efficient to deter depredation.

The bill preserves the requirement for reporting of take to allow wildlife officials to continue to monitor the strength of the population. Even in good years, this is a business of daily challenges and slim margins.

The majority of NCBA members run family-owned operations with a herd size of 100 or fewer. For them, one persistent issue like the black-headed vultures can make or break the bottom line.

Congress can address this without threatening the long-term viability of the species. There is no longer any need for such strict protections for these birds. That makes about as much sense as threatening rats as endangered animals in Washington, DC.

I urge you to pass the Black Vulture Relief Act of 2023, and I thank you for your time this morning. I look forward to answering your questions.

[The prepared statement of Mr. Besher follows:]

PREPARED STATEMENT OF CHARLIE BESHER, PROPERTY RIGHTS & ENVIRONMENTAL MANAGEMENT COMMITTEE CHAIR, NATIONAL CATTLEMEN'S BEEF ASSOCIATION

ON H.R. 1437

Chairman Bentz, Ranking Member Huffman, and Members of the Subcommittee. On behalf of America's cattle producers, thank you for inviting me to speak today on the impact that Black vulture predation is having on family-owned operations like my own.

My name is Charlie Besher. My wife Donna and I are cow-calf producers based in Bollinger County, Missouri, in the southeast corner of the state. We raise registered Hereford cattle and seven grandkids in the foothills of the Ozarks. I bought my first parcel of land at the age of 24, and I have been working to grow the operation ever since, with a prioritization on soil health, water quality, and rotational grazing.

In addition to producing high-quality beef for our nation's food supply chain, I am proud to promote environmental stewardship within the industry at both the state and national level. I currently serve as Chair of the National Cattlemen's Beef Association (NCBA) committee on property rights & environmental management. I am also honored to serve of President of the Missouri Forage and Grasslands Council, Secretary of the Missouri Cattlemen's Association, and Vice Chair of the National Grazing Lands Coalition. In recent years, I have also been active with the U.S. Roundtable for Sustainable Beef.

I am testifying today on behalf of NCBA, the trusted leader and definitive voice of the U.S. cattle and beef industry. Initiated in 1898, NCBA is the American cattle industry's oldest and largest national trade association. In addition to our nearly 26,000 direct members, NCBA represents 44 state cattle associations with collective memberships numbering about 178,000 producers. It is important to note that well over 90 percent of those members are, like myself, family-owned businesses involved in the cow-calf, stocker/backgrounder, and feeding sectors of the supply chain. The majority of NCBA members have a herd size of 100 head or fewer. Each of our members has a voice in our organization's century-old policymaking process, and it is from the grassroots resolutions and policies resulting from this process that NCBA takes positions on legislation.

An integral part of responsible stewardship of our working lands, farms, and ranches is cultivating and maintaining the habitat to support a diverse range of

wildlife species. More than 93 percent of the land in Missouri is privately owned, so by necessity, landowners like cattle producers play a pivotal role in the success of species conservation.[1] In our state, cattle producers have participated in numerous voluntary programs to safeguard habitat and actively manage populations of elk, black bears, white-tailed deer, purple martins, bald and golden eagles, and freshwater species like the pallid sturgeon and paddlefish. On our own operation, we worked closely with Quail Forever to establish native warm season grass, to the benefit of our land and the birds. These kinds of collaborations are not unusual; in everything we do to improve our operation, we also consider the benefits for wildlife as a factor.

Missouri ranchers—like tens of thousands of other cattle producers across the country—are not opposed to sound, science-drive wildlife conservation. On the contrary, we are deeply invested in passing on healthy, resilient, and balanced ecosystems to the next generation. These are the grasslands and forests where we live, work, and raise our families each day; we have no interest in eliminating the abundant wildlife that is part of what makes our way of life so special. Because we are so close to the land and so invested in its stewardship, we are often some of the first people to raise the alarm when some aspect of Mother Nature is out of balance. That is the alarm I want to raise with the Subcommittee today.

Half a century ago, Black vultures were a species of concern in the United States due to decades of lethal take, trapping, and exposure to the eggshell-thinning effects of DDT. The species was listed under the Migratory Bird Treaty Act and has been federally protected from take ever since.[2] However, since the 1970s, the bird has rebounded and become a strong, abundant species across the country and indeed, across North America. Black vulture population numbers have grown steadily by approximately 3.4 percent every year from 1966 to 2019.[3] The Black vulture's global breeding population now numbers approximately 190 million strong, and the multinational conservation organization Partners in Flight has rated the species a 4 out of 20 on their Continental Concern Score, indicating that they are of low conservation concern.[4]

As their population grows, so does the species' harmful impact on cattle producers. From 2015–2019, requests to the U.S. Fish and Wildlife Service (USFWS) for depredation permits to help control Black vultures increased by 26 percent.[5] Depredation by the species on cattle has been confirmed in 18 states, with attacks in other areas likely going unrecorded.[6] As far as the frequency of attacks, this varies from state to state. In some areas, only 15 percent of producers may experience Black vulture depredation. In the most heavily impacted states, it can be much higher. For example, in Florida alone, more than 33 percent of all producers experience calf loss due to Black vulture depredation each year.[7] When you recall the average herd size of NCBA membership is 100 head or fewer and the average herd size for all cattle producers nationwide is even smaller, that constitutes a significant portion. While we do not have extensive records of frequency of attacks in every state across the Southeast and Midwest regions—where Black vultures are most abundant—we can infer that their impact is growing due to the increasing number of permits requested of USFWS and the growing calls for assistance from the U.S. Department of Agriculture (USDA) Animal and Plant Health Inspection Service's (APHIS) Wildlife Services division. According to Wildlife Services, the arm of USDA tasked with assisting cattle producers and other industries with reducing human-wildlife conflict, the number of Black vulture attacks on cattle and calves increased by nearly 25 percent from 2020 to 2022.[8] In 2022 alone, Wildlife Services was called upon to disperse 84,020 Black vultures and euthanize 13,195 across 22 states. Just last week, on my own operation, we discovered a nest in our barn and at least one individual—but when we called USDA for assistance,

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[1] *Hunting on Private Land*. Missouri Department of Conservation. Accessed July 21, 2023.

[2] The Migratory Bird Treaty Act prohibits the take (defined as killing, capturing, selling, trading, or transport) of listed species without prior authorization by the U.S. Fish and Wildlife Service.

[3] *The North American Breeding Bird Survey, Results and Analysis 1966–2019*. USGS Patuxent Wildlife Research Center. Accessed July 21, 2023.

[4] *Avian Conservation Assessment Database Scores*. Partners in Flight. Accessed July 21, 2023.

[5] *Black vulture conflict and management in the United States: Damage trends, management overview, and research needs*. USDA-APHIS, University of Nebraska-Lincoln. Accessed July 21, 2023.

[6] *Spatial risk modeling of cattle depredation by black vultures in the midwestern United States*. Journal of Wildlife Management. Accessed July 21, 2023.

[7] *Vulture-Cattle Interactions: A Survey of Florida Ranchers*. USDA-APHIS Wildlife Services. Accessed July 21, 2023.

[8] *Program Data Report* G. USDA-APHIS Wildlife Services. Accessed July 21, 2023.

they were unable to come for another three days, and when they arrived, they elected not to take the bird.

Black vultures are opportunistic predators. They primarily attack and feed on calves—particularly during parturition—because they are weak, and their mothers are incapacitated and unable to defend themselves during and immediately after giving birth. We are surrounded by nature and by predator-prey relationships on the farm but even still, the predation habits of Black vultures still stand out as unusually harrowing. The birds take an average of 3.5 hours from start of an attack to death of their prey.[9] They kill a calf by first puncturing and consuming its softest tissues; the eyeballs, the anus, and the rear flank (akin to the groin of a human) that, when gouged, gives the birds easy access to the calf's organs. Again—we are not naïve to the realities of nature around us. But even for the most experienced farmer or rancher, these kills are a very gruesome way to see an animal go, especially when it's a baby that you have long awaited and invested in its health. Not only is Black vulture depredation gruesome, but it is also financially costly to cattle producers in a variety of ways. Each kill represents an immediate financial loss due to livestock death; ongoing financial loss due to stress, reduced weight gain, and/or injuries to mother cows; and persistent disruption to operations due to livestock's hesitancy to graze forage in pastures that are habitually frequented by Black vultures. In a Florida study, researchers found that each instance of Black vulture depredation cost the producer an average of $2,000.[10]

The bipartisan "Black Vulture Relief Act of 2023" would address this growing challenge by allowing farmers and ranchers to lethally take Black vultures without first acquiring a sub-permit. Due to the bird's status under the Migratory Bird Treaty Act, a federal permit is required to engage in lethal take of the bird. Permits are issued by USFWS to the states, and states in turn issue sub-permits to producers. Sub-permits only allow for three takes a year, with the option to go up to five in select states. In my home state of Missouri, we are seeing these birds descend on calving pastures in flocks are 40 to 50. Taking three birds, one time per year, is not sufficient to deter depredation. This legislation would remove the requirement for a sub-permit, allowing farmers and ranchers to take Black vultures as needed, in the moment, when the threat to livestock is greatest. The bill preserves the requirement for reporting of take on the back end, consolidating this information into a once-yearly report to the appropriate USFWS Regional Office. This will allow USFWS and state wildlife officials to continue to monitor the Black vulture population and uphold responsible stewardship of the species.

Even in years of strong rainfall and strong markets, ranching is a business of daily adversity and slim margins. The majority of cattle producers in the United States are running small, family-owned operations, not the large feeding operations or packing facilities often focused on by the media. For these family farmers and ranchers, one persistent issue like Black vulture depredation can make the difference between making the numbers work for another year or being forced to downscale or close operations.

The challenge of Black vultures is one that Congress has the ready tools to address, and we can do so without eradicating the species or threatening its long-term viability. There is no longer the need to protect these birds as if any affirmative management could contribute to their decline. To do so makes about as much sense as treating squirrels or rats as endangered animals in Washington, DC. I urge you to pass the "Black Vulture Relief Act of 2023" and equip producers with the flexibility they need to protect their livestock against this predator species.

Thank you for inviting me to testify on this critical issue and the commonsense solution that has been put forward for the Subcommittee's consideration. I look forward to answering any questions.

Mr. BENTZ. Thank you. I now recognize Mr. Wolff for 5 minutes.

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[9] *Black vulture conflict and management in the United States: Damage trends, management overview, and research needs*. USDA-APHIS, University of Nebraska-Lincoln. Accessed July 21, 2023.

[10] *Vulture-Cattle Interactions: A Survey of Florida Ranchers*. USDA-APHIS Wildlife Services. Accessed July 21, 2023.

STATEMENT OF STEVE WOLFF, GENERAL MANAGER, SOUTHWESTERN WATER CONSERVATION DISTRICT, DURANGO, COLORADO

Mr. WOLFF. Chairman Bentz, Ranking Member Huffman, and members of the Subcommittee, thank you for the opportunity to testify regarding H.R. 4596. My name is Steve Wolff, and I currently serve as General Manager of the Southwestern Water Conservation District in Durango, Colorado.

The district was created by the Colorado General Assembly in 1941 to protect, conserve, use, and develop the water resources of the San Juan and Dolores River basins for the welfare of all people in southwest Colorado.

I would like to thank Representative Boebert for introducing this bill, and commend her staff for their efforts to seek input from the participants in the two recovery programs.

Southwestern has been a participant in San Juan recovery program since its inception in 1992. I currently serve on two subcommittees representing water users in the Upper Colorado River program and in the San Juan program. Prior to my time in Southwestern, I worked for the Wyoming State Engineer's office. As part of my duties there I represented the State of Wyoming on the Upper Colorado River Program Management Committee from 2013 to 2021, and served as Chair from 2016 to 2021. This background has given me perspective on the benefits and the needs of the programs that I would like to share with you today.

The purpose of H.R. 4596 is to reauthorize the Bureau of Reclamation to provide cost-shared funding to implement the endangered and threatened fishery programs for the Upper Colorado and San Juan River basins. The authorization for the period of Fiscal Year 2024 through Fiscal Year 2031 is for $50 million for capital projects and $80 million for annual base funding. These authorizations are adjusted annually for inflation.

The Upper Colorado program was established in 1988. The San Juan program was established in 1992. These programs were both established with two principal goals in mind: the recovery of four threatened and endangered fish species listed under the Federal ESA, and to allow water development and water management activities to proceed in a manner consistent with state water law. These programs have been and continue to be successful on both of these goals.

Reclamation, in cooperation with the four Upper Colorado River Basin states and other partners, has been a participant in the program since their inception. Reclamation funding, along with the substantial funding and in-kind contributions by non-Federal parties, is essential to the continued success of the programs. For example, non-Federal water users have provided 2.9 million acre-feet of contributed water to benefit these endangered species and their habitats, with an estimated value of $580 million.

As I stated earlier, these programs have the goal of recovering four threatened endangered fish species listed under ESA in a manner consistent with state and wildlife law, Reclamation project authorizations, and interstate water compacts adopted by Congress. The list of species are Colorado pikeminnow, humpback

chub, razorback sucker, and bonytail. These species are native to and found only in the Colorado River basin.

The programs have been implemented with cooperation and participation of Federal agencies; the states of Colorado, Utah, New Mexico, and Wyoming; water users; environmental organizations; power customers; and Native American tribes. These programs have been successful in preserving and moving the listed species toward recovery.

Prior to the implementation of the programs, these species were on the verge of extinction. The actions taken to preserve and recover the species are considered by the U.S. Fish and Wildlife Service in evaluating the impacts of water development and management activities in the Upper Colorado River and San Juan River basins on the four listed fish species as required by the ESA.

To date, the Service has independently determined that the actions taken by the two recovery programs provide ESA compliance for 2,500 water projects in the four Upper Basin states. These projects include every Reclamation project in the basins upstream of Lake Powell.

The programs allow the United States to fulfill its trust responsibilities to Native American tribes with respect to water development and ESA compliance. Importantly, no lawsuits have been filed on ESA compliance with these two programs during the past 30 years.

Program participants are concerned that the $80 million authorized for annual base funding in H.R. 4596 is below the amount needed for the two recovery programs. However, we do recognize that the rules of the House have kept this funding flat, but we will seek ways to increase that funding to the $92 million that is in the Senate version of this bill.

In closing, I would like to emphasize that these programs have been successful in the goals of preserving and moving listed species toward recovery.

I urge you to approve this bill. I will be happy to take any questions.

[The prepared statement of Mr. Wolff follows:]

PREPARED STATEMENT OF STEVE WOLFF, GENERAL MANAGER, SOUTHWESTERN WATER CONSERVATION DISTRICT

ON H.R. 4596

Good morning, Chairman Bentz, Ranking Member Huffman, and Members of the Subcommittee. Thank you for the opportunity to testify regarding H.R. 4596.

My name is Steve Wolff and I currently serve as the General Manager of the Southwestern Water Conservation District (Southwestern), in Durango Colorado. The District was created by the Colorado General Assembly in 1941 to protect, conserve, use, and develop the water resources of the San Juan and Dolores River Basins for the welfare of the people in southwest Colorado. Southwestern has been participating in the San Juan Program since its inception. I would also like to thank Representative Boebert for introducing this bill and commend her staff for their efforts to seek input from the participants in the two recovery programs on the bill.

I currently serve on two committees representing water users participating in the Upper Colorado River Endangered Fish Recovery Program and the San Juan River Recovery Implementation Program. Prior to my current position, I was employed by the Wyoming State Engineer's office for 15 years. As part of my duties there, I represented the State of Wyoming on the Management Committee of the Upper Colorado River Endangered Fish Recovery Program from 2013 to 2021, including serving as Chair from 2016 to 2021. My background has given me a perspective on

the benefits and needs of these programs that I would like to share with you today with respect to H.R. 4596.

Summary: The purpose of H.R. 4596 is to reauthorize the Bureau of Reclamation (Reclamation) to provide cost-shared funding to implement the endangered and threatened fish recovery programs for the Upper Colorado and San Juan River basins. The authorization for the period of FY 24 through FY 31 is for $50 million for capital projects and $80 million dollars for base (annual) funding. Funding authorizations are adjusted annually for inflation.

The Upper Colorado Program was established in 1988. The San Juan Program was established in 1992. These programs were established with two principal goals; 1) the recovery of four threatened and endangered fish species listed under the federal Endangered Species Act (ESA), and 2) allow water development and management activities to proceed in a manner consistent with state water law. These programs have been and continue to be successful in meeting both of those goals.

Reclamation, in cooperation with the four Upper Colorado River basin states and other partners, has been a participant in the programs since their inception. Reclamation funding, along with substantial funding and in-kind contributions by non-federal parties, is essential to the continued success of the programs. Non-federal water users have provided 2.9 million acre-feet of water to benefit endangered species and their habitats with an estimated value of at least $580 million.

As I stated earlier, these programs have the goal of recovering four threatened and endangered fish species listed under the federal Endangered Species Act (ESA) in a manner consistent with state water and wildlife law, Reclamation project authorizations, and interstate water compacts adopted by Congress. The listed species are the Colorado pikeminnow, humpback chub, razorback sucker, and bonytail. The species are native to and found only in the Colorado River basin.

The programs have been implemented with the cooperation and participation of federal agencies, the states of Colorado, Utah, New Mexico, and Wyoming, water users, environmental organizations, power customers, and Native American tribes. These programs have been successful in preserving and moving the listed species toward recovery. Prior to the implementation of the programs, the species were on the verge of extinction.

The actions taken to preserve and recover the species are considered by U.S. Fish and Wildlife Service (Service) in evaluating the impacts of water development and management activities in the Upper Colorado River and San Juan River basins on the four listed fish species as required by the ESA. To date, the Service has independently determined that the actions taken by the recovery programs provide ESA compliance for 2,500 water projects in Colorado, Utah, Wyoming, and New Mexico. These projects include every Reclamation project in the basins upstream of Lake Powell. The programs allow the United States to fulfill its trust responsibilities to Native American tribes with respect to water development and management activities compliance with the Endangered Species Act. Importantly, no lawsuits have been filed on ESA compliance provided by the recovery programs.

Program participants are concerned that the $80 million authorized for annual base funding by Reclamation in H.R. 4596 is below the amount needed by the two recovery programs. The participants identified a need for $11.85 million in Reclamation funding for fiscal years 2024 through 2028 and $10.93 million for fiscal years 2029 through 2031, totaling $92.04 million for the authorization period in H.R. 4596. These amounts would also be adjusted for inflation.

The program participants are aware that the current rules of the House of Representatives limit the amount to be authorized in compliance with the 'cut go' rule. We will continue looking for opportunities to increase authorized base funding in compliance with House rules.

The recovery programs have been successful in the goals of preserving and moving listed species towards recovery and in providing ESA compliance for 2,500 water projects in the Upper Colorado and San Juan river basins. Cost-sharing funding authorized by H.R. 4596 is essential for the continued success of the programs.

I will be happy to answer any questions from Subcommittee members. If I cannot provide answers, I request your permission to provide written responses subsequent to this hearing in a time frame specified by the Subcommittee.

Cooperation and Collaboration: Participants in the two programs include;

- States of Colorado, Utah, New Mexico, and Wyoming,
- Navajo Nation, Jicarilla Apache Nation, Ute Mountain Ute Tribe, Southern Ute Tribe,
- The Nature Conservancy, Western Resource Advocates,

- Colorado River Energy Distributors Association,
- U.S. Fish and Wildlife Service, Bureau of Reclamation, Western Area Power Administration, Bureau of Indian Affairs, and Bureau of Land Management.

The program partners participate in management and technical committees that determine actions and the priority of actions to be taken by the recovery programs to benefit listed fish, the development of annual work plans, and the development of long-range plans.

Recovery Program Activities to Benefit Threatened and Endangered Fish: The programs provide ESA compliance for basin-wide water development activities using an innovative structure to adaptively manage on-the-ground recovery actions at a system-wide level rather than project by project. This allows for more effective recovery actions and more efficient use of resources. Ongoing research and monitoring assure that recovery activities to benefit the species are effective, efficiently implemented, scientifically based, and evaluated through an adaptive management process. The components of the programs are

- instream flow identification and protection,
- habitat restoration,
- nonnative fish management,
- outreach,
- research and monitoring, and
- program management.

Activities supported by base (annual) funding include operation and maintenance of capital facilities, instream flow management, stocking of endangered fish, nonnative fish management, research and monitoring, and program management.

These capital and base-funded activities are vital to the preservation and recovery of the species and to providing ESA compliance for water development and management activities in the two basins. These are the activities that are provided with continuing cost-share funding authorized in H.R. 4596 and with substantial cash and in-kind contributions by non-federal partners.

Status of the Endangered Fish: At the beginning of the recovery programs, two of the listed species, Colorado pikeminnow, and humpback chub were on the verge of extinction. The razorback sucker and bonytail were found only in very low numbers. In 2021, the Service down listed the humpback chub from endangered to threatened and proposed down listing of the razorback sucker from endangered to threatened. The programs have preserved populations of Colorado pikeminnow. The Upper Colorado Program is stocking bonytail to restore populations in the Upper Colorado River basin.

Funding Authorized by H.R. 4596: H.R. 4596 authorizes appropriations to the Bureau of Reclamation (Reclamation) for capital and base (annual) funding of the recovery programs. For the period of FY 24 through FY 31 capital funding is authorized to $50 million and base funding is authorized at $80 million, based on $10 million per year. Both capital and base funding are adjusted for inflation each year to ensure that funding is increased with the cost of construction and personnel. The inflation adjustment is a critical component of both programs' funding.

Recovery Program participants have identified capital funding needs of $50 million over the authorization period. These needs include the construction of fish passages, fish screens, hatcheries, and habitat development and improvement. In addition, capital funding is used to rehabilitate aging capital projects constructed over the last 30 years and to make structural improvements to the project for more efficient and effective operation. The capital projects provide the infrastructure needed to preserve and recover the listed species. The states will contribute capital funds on a project-by-project basis as funds are available.

Activities supported by base funding include operation and maintenance of capital facilities, instream flow management, stocking of endangered fish, nonnative fish management, research and monitoring, and program management. In addition to base funding provided by Reclamation, direct cash funding is also provided by the states and U.S. Fish and Wildlife Service. The states provide $500,000 per year in annual funding. U.S. Fish and Wildlife Service provides $1.5 million per year. These are in addition to the substantial in-kind and cash equivalent contributions discussed below.

Within the last year, participants in the programs conducted a thorough assessment of future needs and costs to continue the preservation and recovery of the listed species. Program participants are concerned that the $80 million authorized

for annual base funding by Reclamation in H.R. 4596 is below the amount needed by the two recovery programs. The participants identified a need for $11.85 million in Reclamation funding for fiscal years 2024 through 2028 and $10.93 million for fiscal years 2029 through 2031, totaling $92.04 million for the authorization period in H.R. 4596. These amounts would also be adjusted for inflation.

The program participants are aware that current rules of the House of Representatives limit the amount to be authorized in compliance with the 'cut go' rule. We will continue looking for opportunities to increase authorized base funding in compliance with House rules.

Cash and In-Kind Contributions by Non-Federal Participants: In-kind, cash, cash equivalent, land, and water contributions to the recovery programs have been made by non-federal participants in the programs including states, tribes, power customers, water users, and environmental organizations. These contributions have supported both capital and annual activities. These contributions will continue to be made through FY 31 and beyond. These contributions are in addition to direct cash contributions by Reclamation and other parties.

In-kind funding and actions provided by non-federal participants in the Upper Colorado and San Juan Programs are substantial and essential for the preservation and recovery of the listed fishes. In-kind contributions are essential for providing ESA compliance for over 2,500 federal, tribal, and non-federal water projects upstream of Lake Powell.

It has been common for the states to contribute additional staffing and funding to support the annual activities of the programs. Cash-equivalent contributions that the states fund provide directly support activities in the programs' annual workplans and reduce cash expenditures by the programs. Examples of current cash-equivalent actions include direct funding of stream gages utilized by the programs, operation of a fish hatchery, water management by state water agencies to assure protection and delivery of water to endanger fish habitat, and non-native fish control activities by state wildlife agencies.

Water for Endangered Fish: Under the recovery programs, water users and the states have agreed to provide water to benefit the listed species in accordance with state water law and interstate compacts approved by Congress. Reclamation operates Reclamation projects in accordance with congressional authorizations. There has been no taking water from any water user or Reclamation contractor.

Water users and the recovery programs have cooperatively implemented water efficiency projects that provide saved water to benefit listed fish and their habitats. Water is also provided to augment the spring peak and base flows through efficient operation of federal and non-federal projects without diminishing the yields of those projects.

From 1998 through 2022, non-federal water users have contributed approximately 2.9 million acre-feet of water to benefit endangered fish. The value of this water, if it had to be purchased at a nominal low estimated cost of $200 per acre-foot, would be $590 million.

Without the provision of water to benefit endangered fish and the management of water by states for delivery to the listed species' habitat, the programs could not provide ESA compliance for federal, tribal, or non-federal water projects.

Federal Native American Trust Responsibilities: Average annual total depletions in the San Juan River basin are approximately 869,000 acre-feet per year. Tribal depletions and settlements account for approximately 62% of the depletions totaling 540,000 acre-feet per year. Tribal and non-tribal depletions are provided with ESA compliance by the San Juan Recovery Program. The San Juan Recovery Program allows the United States to carry out its trust responsibilities with respect to tribal depletions and settlements in compliance with the ESA.

Endangered Species Act Compliance: The Endangered Species Act requires federal agencies to consult with the U.S. Fish and Wildlife Service on any action taken that may affect threatened or endangered species. These actions include issuance/renewal of contracts for water from Reclamation projects, permitting, and granting rights of way. The Service has been required to identify reasonable and prudent alternatives and measures to mitigate the impacts of those actions. Almost all federal, tribal, and non-federal water projects are subject to ESA compliance in the Upper Colorado River and San Juan River basins due to impacts on the listed species.

U.S. Fish and Wildlife Service has agreed to consider actions taken by the recovery programs to determine if those actions provide compliance with the Endangered Species Act for water projects. The Service independently makes such a determination but is not obligated to make a determination that Recovery

Program actions provide ESA compliance. The Service also conducts a biennial assessment of the programs overall to determine if the programs are continuing to provide ESA compliance for the water projects consulted on. In these assessments, the Service may make recommendations to ensure that the programs continue to provide ESA compliance. These recommendations are incorporated into the recovery programs' annual work plans.

Since the inception of the San Juan and Upper Colorado programs in 1988 and 1992 respectively, the Service has found that the programs provide ESA compliance for approximately 2,500 federal, tribal, and non-federal water projects depleting approximately 3.8 million acre-feet per year in Colorado, Wyoming, Utah, and New Mexico. These projects include every Reclamation project in the two basins upstream of Lake Powell. ESA compliance provided by the programs provides much more efficient administration of and compliance with the ESA for water users, federal agencies, and the Service. There have been no lawsuits contesting ESA compliance provided by the recovery programs.

Conclusion: The recovery programs have been successful in achieving the goals of preserving and moving listed species towards recovery and in providing ESA compliance for 2,500 water projects in the Upper Colorado and San Juan river basins. Cost-sharing funding authorized by H.R. 4596 is essential for the continued success of the programs.

Mr. BENTZ. Thank you.

Mrs. Boebert, you are recognized to tell us a little more about the witness that we just heard.

Mrs. BOEBERT. Thank you, Mr. Chairman. It is my great honor and pleasure to have with us today Steve Wolff, General Manager of the Southwestern Water Conservation District.

Prior to this position, Steve served as the Interstate Streams Division Administrator in the Wyoming State Engineer's Office. Before his time at the Wyoming State Engineer's office, Mr. Wolff worked for the Wyoming Game and Fish Department, serving as Manager for the Aquatic Habitat and Water Management Group.

I was absolutely thrilled to join Steve and other water users at the Southwestern Water Conservation District's 39th Southwest Water Seminar earlier this year that Steve organized and led. It was a great program, and it was very well done, very well attended. It is always a pleasure to have meetings pertaining to such important issues in Colorado's 3rd District like water. These are typically our top three issues that we face in western Colorado: water, water, and water.

And I am also very excited to continue working with Mr. Wolff on the passage of my bill, H.R. 4596, my Upper Colorado and San Juan River Basins Endangered Fish Recovery Programs Reauthorization Act of 2023.

Mr. Wolff, thank you so much for joining us here in this Committee, and thanks for making the trip.

Mr. Chairman, I yield.

Mr. BENTZ. Thank you, Mrs. Boebert. I now recognize Mr. Shawcroft for 5 minutes.

STATEMENT OF GENE SHAWCROFT, GENERAL MANAGER, CENTRAL UTAH WATER CONSERVANCY DISTRICT, OREM, UTAH

Mr. SHAWCROFT. Thank you, Chairman Bentz, Ranking Member Huffman, Congressman Curtis, and members of the Subcommittee. On behalf of the Central Utah Water Conservancy District, I thank you for inviting me to speak in support of the Great Salt Lake Stewardship Act, H.R. 4094.

This critically important bill amends the Central Utah Project Completion Act or, as we affectionately call it, CUPCA, to authorize the Secretary of the Interior to redirect authorized and unexpended central Utah project funds toward new conservation measures to help recover the Great Salt Lake, Utah's most famous natural resource.

I especially want to thank my good friend, Congressman Curtis, along with all of Utah's Congressional Delegation members, for leading the introduction of H.R. 4094.

As both General Manager of the Central Utah Water Conservancy District and Chair of Utah's Colorado River Authority, I can say unequivocally that Utah has got the message on the urgent need for water conservation. Water conservation is now one of Utah's top priorities.

The existing congressionally authorized funding that is being repurposed in this bill is being diverted from old CUPCA priorities that were planned decades ago, increasing water flow to the Great Salt Lake, which is now paramount. This year, the Great Salt Lake experienced record low levels, causing widespread concern about dust carrying airborne toxins, brine shrimp, ecosystem health, and our ability to preserve fragile migratory bird refuge habitat.

The state of Utah, Utah water users, and other stakeholders have been working to find immediate and sustainable solutions to support the Great Salt Lake. While this winter and spring provided record-breaking snow and ideal runoff conditions, water professionals know this granted only a temporary reprieve. Extreme water conditions are now the norm, as evidenced by this summer's heat. We have to adapt permanently.

H.R. 4094 will extend and expand the district's very successful water conservation program authorized originally in CUPCA. CUPCA was part of a monumental bipartisan omnibus bill, P.L. 102-575, spearheaded and passed in 1992 by Senator Jake Garn of Utah and Representative George Miller of California.

I want to emphasize that this bill does not require any new spending authorization. Funding would come through the programmatic funding Congress provided to the CUPCA program. We estimate that as much as $100 million of already authorized Central Utah project funds could be reprogrammed to fund water conservation projects through the entire Great Salt Lake Basin.

Under section 207 in CUPCA, the district established a water conservation credit program to distribute funds for water conservation. Since the program's inception, we have received 132 applications; 45 projects have been selected and funded. The highest weighted criteria for project funding is the amount of water conserved.

Over $122 million in Federal funds have been distributed so far, financing up to 65 percent of a conservation project's total cost. To date, funded projects have conserved a combined total of over 2.2 million acre-feet, with annual projections of approximately 140,000 acre-feet. This Act would expand the program to include any conservation project that provides demonstratable water saving benefits in the Great Salt Lake drainage basin.

To conclude, if enacted, the Great Salt Lake Stewardship Act provides a mechanism for sustainable funding and support for

water conservation projects that will benefit the Salt Lake Basin. H.R. 4094 has the capability to expand conservation benefits without increasing Federal spending beyond what has already been authorized by Congress for the CUPCA program. This will provide a stable access to funding for those projects that conserve water for the benefit of the Great Salt Lake.

Thank you, and I am happy to answer any questions.

[The prepared statement of Mr. Shawcroft follows:]

PREPARED STATEMENT OF GENE SHAWCROFT, GENERAL MANAGER, CENTRAL UTAH WATER CONSERVANCY DISTRICT

ON H.R. 4094

Chairman Bentz, Ranking Member Huffman, Congressman Curtis and members of the Subcommittee, on behalf of the Central Utah Water Conservancy District, I thank you for inviting me to speak in support of the Great Salt Lake Stewardship Act (H.R. 4094). This critically important bill amends the Central Utah Project Completion Act or as we affectionally call it, "CUPCA", to authorize the Secretary of the Interior to redirect authorized and unexpended Central Utah Project funds towards new water conservation measures to help recover the Great Salt Lake—Utah's most famous natural resource! I especially want to thank my good friend Congressman John Curtis along with all of Utah's Congressional delegation members, for leading the introduction of H.R. 4094. As both General Manager of the Central Utah Water Conservancy District (District) and Chair of Utah's Colorado River Authority, I can say unequivocally that Utah has "got the message" on the urgent need for water conservation. Water conservation is now one of the State's top priorities.

The existing Congressionally authorized funding that is being repurposed in this bill is being diverted from old CUPCA priorities that were planned decades ago. Increasing water flow to the Great Salt Lake basin is now more paramount. This year, the Great Salt Lake experienced record low levels causing widespread concern about dust carrying airborne toxins, Brine Shrimp ecosystem health, and our ability to preserve fragile migratory bird refuge habitat. The State of Utah, water users and other stakeholders have been working to find immediate and sustainable solutions to support the Great Salt Lake. While this winter and spring provided record breaking snow and ideal runoff conditions, water professionals know this granted a temporary reprieve. Extreme weather conditions are now the norm as evidenced by this summer's record heat. We have to adapt, permanently.

Overview of the Great Salt Lake Stewardship Act—H.R. 4094

H.R. 4094 will extend and expand the District's very successful water conservation program authorized originally in CUPCA. CUPCA was part of a monumental bipartisan omnibus water bill, P.L. 102-575, spearheaded and passed in 1992 by Senator Jake Garn (R-Utah) and Rep. George Miller (D-CA).

I want to emphasize that this bill does not require any new spending authorization. Funding would come through the programmatic funding Congress provides to the CUPCA program within the Department of Interior's budget each year. The federal funding that is allocated to CUPCA is paid back to the U.S. Treasury over time, with interest. Together with the Department of the Interior, the District estimates that as much as $100 million of already authorized Central Utah Project funds could be reprogrammed to fund water conservation projects throughout the entire Great Salt Lake basin. The bill also would expand the program from the existing 8 counties to include a total of 12 counties along the populous Wasatch front. This will assist efforts by the State of Utah, local communities and water districts north of Salt Lake County from which the Great Salt Lake receives most of its water. These areas have also been hit by the state's worst drought conditions.

Section 207 of CUPCA

Under Section 207 in CUPCA, the District established a *Water Conservation Credit Program* to distribute funds for water conservation. Since the program's inception, we have received 132 applications from diverse project sponsors that include agriculture, urban, cities, water districts, and nonprofits. Under Section 207, even the State Director of Natural Resources can propose a conservation project. All projects are reviewed by the Utah Water Conservation Advisory Board consisting of nine members. They provide recommendations of the projects that should advance

forward for funding. To date, 45 projects have been selected and funded at various stages of implementation. The highest weighted criteria for project funding is the amount of water conserved. Many are large scale capital-intensive construction projects, such as canal lining/enclosures, secondary water systems, irrigation improvements and recently turf grass removal projects. Over $122 million in federal funds have been distributed so far, financing up to 65% of a conservation project's total cost.

In 2020 alone, the water savings from these projects were enough to nearly fill Deer Creek Reservoir, which has a capacity of 152,000 acre-feet. To date, funded projects have conserved a combined total of **2,242,450-acre feet**[1] with annual projections of approximately 140,000-acre feet of conserved water moving forward. The results of these projects have continued to exceed projections and established goals.

Until this bill, all conservation projects had to be within the footprint of the Central Utah Project service area, which includes the Uinta basin. The Great Salt Lake Stewardship Act would expand the program to include any conservation project that provides demonstrable water saving benefits in the Great Salt Lake drainage basin.

Conclusion

If enacted, the Great Salt Lake Stewardship Act provides a mechanism for sustainable funding and support for water conservation projects that will benefit the Salt Lake basin. H.R. 4094 has the capability to expand conservation benefits without increasing federal spending beyond what has been already authorized by Congress for the CUPCA program. This will provide a stable access to funding for those projects that conserve water for the benefit of the Great Salt Lake.

The following documents were submitted as supplements to Ms. Shawcroft's testimony.

STATE OF UTAH
Department of Natural Resources

July 25, 2023

Hon. Mike Lee
U.S. Senate
Russell Senate Office Bldg
Washington, DC 20510

Hon. Mitt Romney
U.S. Senate
Russell Senate Office Bldg
Washington, DC 20510

Hon. John Curtis
U.S. House of Representatives
Rayburn House Office Bldg
Washington, DC 20515

Hon. Chris Stewart
U.S. House of Representatives
Cannon House Office Bldg
Washington, DC 20515

Hon. Burgess Owens
U.S. House of Representatives
Cannon House Office Bldg
Washington, DC 20515

Hon. Blake Moore
U.S. House of Representatives
Longworth House Office Bldg
Washington, DC 20515

Re: Support for the Great Salt Lake Stewardship Act (H.R. 4094/S. 1955)

Dear Utah Congressional Delegation:

I express my full support for the Great Salt Lake Stewardship Act. The Division of Water Resources' mission is to plan, conserve, develop and protect Utah's water resources. Great Salt Lake—the largest terminal lake in the Western Hemisphere—is facing significant threats as prolonged drought and increased demand for water plague the West. The state of Utah is confident that we can ameliorate the drought-stricken challenges within the Great Salt Lake watershed and the lake will continue

[1] Section 207 Water Conservation Credit Program 2022 Annual Report.

to be a globally significant resource for tens of millions of migratory birds and support industries critical to the U.S. manufacturing, defense and farming. Federal funding to support these efforts is crucial as the task before us is challenging. We have prioritized three project areas to bring water to Great Salt Lake: water supply enhancement, water conservation and wetland ecosystem restoration.

This legislation provides access to additional funding to increase water conservation efforts and augment water flows into the Great Salt Lake basin. Water conservation is a top priority, and this bill recognizes the importance of advancing projects that will help to replenish the Great Salt Lake.

The Great Salt Lake Stewardship Act will enhance access to federal funding for water conservation projects by adding a new provision to the Central Utah Project Completion Act (CUPCA—Public Law 102-575). This change allows the Secretary of Interior to reallocate unspent budget authorities within Title II of CUPCA and to put funds towards water conservation activities. Also, the bill expands the scope of the CUPCA water conservation program to include the Great Salt Lake basin, which will significantly benefit the lake. Finally, the CUPCA program enjoys annual funding support from Congress, providing a stable source of future funding for water conservation initiatives.

Thank you for introducing Great Salt Lake Stewardship Act and for your work in advancing it through the legislative process.

Sincerely,

CANDICE A. HASENYAGER,
Director

STATE OF UTAH
Department of Natural Resources

July 20, 2023

Hon. Mike Lee
U.S. Senate
Russell Senate Office Bldg
Washington, DC 20510

Hon. Mitt Romney
U.S. Senate
Russell Senate Office Bldg
Washington, DC 20510

Hon. John Curtis
U.S. House of Representatives
Rayburn House Office Bldg
Washington, DC 20515

Hon. Chris Stewart
U.S. House of Representatives
Cannon House Office Bldg
Washington, DC 20515

Hon. Burgess Owens
U.S. House of Representatives
Cannon House Office Bldg
Washington, DC 20515

Hon. Blake Moore
U.S. House of Representatives
Longworth House Office Bldg
Washington, DC 20515

Re: SUPPORT FOR THE GREAT SALT LAKE STEWARDSHIP ACT (H.R. 4094/ S. 1955)

Dear Utah Congressional Delegation:

The Utah Department of Natural Resources is writing to express full support for the Great Salt Lake Stewardship Act. This legislation enhances access to federal funding for water conservation projects by expanding the Central Utah Project Completion Act (CUPCA—Public Law 102-575). This bill allows water conservation projects in the Great Salt Lake basin to be included in the CUPCA water conservation program. Expanding the scope will bring greater participation from cities, irrigation districts, and more. It will also provide a stable funding source for future water conservation initiatives.

The Great Salt Lake is vital to the environment, ecology and economy, not just in Utah but also the western United States. For the second year in a row, Utah's legislative session concluded with significant investment and a long list of bills targeting water conservation, efficiency and infrastructure. This investment over the past two years totals about $1 billion. It's a great start, but we must do more to preserve and protect the lake.

Record-low levels have prompted unprecedented in interest in the lake by media around the globe, policymakers, Utahns across all sectors and more. We appreciate this interest and are taking action to protect the lake and its unique ecosystem. Unfortunately, it often takes a crisis to elevate an issue of this magnitude into the public eye.

Increasing water flows to the lake is a top and immediate priority. This can be accomplished through aggressive and strategic water conservation. In the past, Congress has invested federal funding in water bodies of national importance, like the Great Salt Lake. The Great Salt Lake Stewardship Act is an important piece of legislation that will help protect this unique resource.

Thank you for your help and support as you guide the Great Salt Lake Stewardship Act through the legislative process.

Sincerely,

JOEL FERRY,
Executive Director

TROUT UNLIMITED

July 18, 2023

Hon. Mike Lee
U.S. Senate
Russell Senate Office Bldg
Washington, DC 20510

Hon. Mitt Romney
U.S. Senate
Russell Senate Office Bldg
Washington, DC 20510

Hon. John Curtis
U.S. House of Representatives
Rayburn House Office Bldg
Washington, DC 20515

Hon. Chris Stewart
U.S. House of Representatives
Cannon House Office Bldg
Washington, DC 20515

Hon. Burgess Owens
U.S. House of Representatives
Cannon House Office Bldg
Washington, DC 20515

Hon. Blake Moore
U.S. House of Representatives
Longworth House Office Bldg
Washington, DC 20515

Re: Support for the Great Salt Lake Stewardship Act (H.R. 4094/S. 1955)

Dear Utah Congressional Delegation:

Trout Unlimited is writing to express support for the Great Salt Lake Stewardship Act. As one of the preeminent conservation organizations working on rivers in the US, we are interested in the conservation and preservation of our coldwater streams. This includes work to conserve both flow and habitat dependent on riparian and mesic systems. This legislation provides access to additional funding resources needed to increase water conservation efforts and augment water flows into the Great Salt Lake basin. Sustained drought has caused the lake levels to decline to a concerning degree. Water conservation is a top priority, and this bill recognizes the importance of advancing projects that will help to replenish the Great Salt Lake.

The Great Salt Lake Stewardship Act will enhance access to federal funding for water conservation projects by adding a new provision to the Central Utah Project Completion Act (CUPCA—Public Law 102-575). This change gives the Secretary of Interior the flexibility to reallocate unspent budget authorities within Title II of CUPCA and to put funds towards water conservation activities. Also, the bill expands the scope of the CUPCA water conservation program to now include the Great Salt Lake basin, which will greatly benefit the lake. Additionally, we would like to see the scope of the bill expand to the Uinta Basin where two to three hundred-thousand-acre feet are extracted to support the water use of the Wasatch Front. The two systems are linked by natural water cycles as well as transbasin diversions and water conservation measures should be taken in both to promote healthy waterways and communities throughout Utah. Finally, the CUPCA program enjoys annual funding support from Congress providing a stable source of future funding for water conservation initiatives.

Healthy streams and habitats are inextricably linked to healthy communities with a high quality of life. Conservation measures big and small should be prioritized to promote the health and safety of our Utah population, the long term and continued health of our agriculture, municipal, and industrial water systems, and a healthy ecosystem, all of which drive a healthy Utah economy.

Thank you introducing Great Salt Lake Stewardship Act and for your work in advancing it through the legislative process.

Warm regard,

JORDAN NIELSON,
Utah Water and Habitat Program Director

JORDAN VALLEY WATER CONSERVANCY DISTRICT

July 17, 2023

Hon. Mike Lee
U.S. Senate
Russell Senate Office Bldg
Washington, DC 20510

Hon. Mitt Romney
U.S. Senate
Russell Senate Office Bldg
Washington, DC 20510

Hon. John Curtis
U.S. House of Representatives
Rayburn House Office Bldg
Washington, DC 20515

Hon. Chris Stewart
U.S. House of Representatives
Cannon House Office Bldg
Washington, DC 20515

Hon. Burgess Owens
U.S. House of Representatives
Cannon House Office Bldg
Washington, DC 20515

Hon. Blake Moore
U.S. House of Representatives
Longworth House Office Bldg
Washington, DC 20515

Re: Support for the Great Salt Lake Stewardship Act (H.R. 4094/S. 1955)

Dear Utah Congressional Delegation:

I am pleased to express the full support of the Jordan Valley Water Conservancy District (JVWCD) for the Great Salt Lake Stewardship Act. As a regional water supply agency serving a population over 775,000 in Salt Lake County, JVWCD will benefit from the more flexible water conservation enabled by the legislation. This legislation provides access to additional funding resources needed to increase water conservation efforts and augment water flows into the Great Salt Lake basin. Sustained drought has caused the lake levels to decline to a concerning degree. Water conservation is a top priority, and this bill recognizes the importance of advancing projects that will help to replenish Great Salt Lake.

The Great Salt Lake Stewardship Act will enhance access to federal funding for water conservation projects by adding a new provision to the Central Utah Project Completion Act (CUPCA—Public Law 102-575). This change gives the Secretary of Interior the flexibility to reallocate unspent budget authorities within Title II of CUPCA and to put funds towards water conservation activities. Also, the bill expands the scope of the CUPCA water conservation program to now include the Great Salt Lake basin, which will greatly benefit the lake. Finally, the CUPCA program enjoys annual funding support from Congress providing a stable source of future funding for water conservation initiatives.

Thank you for introducing Great Salt Lake Stewardship Act and for your work in advancing it through the legislative process.

Sincerely,

ALAN E. PACKARD,
General Manager/CEO

THE NATURE CONSERVANCY
Salt Lake City, UT

July 17, 2023

Hon. Mike Lee
U.S. Senate
Russell Senate Office Bldg
Washington, DC 20510

Hon. Mitt Romney
U.S. Senate
Russell Senate Office Bldg
Washington, DC 20510

Hon. John Curtis
U.S. House of Representatives
Rayburn House Office Bldg
Washington, DC 20515

Hon. Chris Stewart
U.S. House of Representatives
Cannon House Office Bldg
Washington, DC 20515

Hon. Burgess Owens
U.S. House of Representatives
Cannon House Office Bldg
Washington, DC 20515

Hon. Blake Moore
U.S. House of Representatives
Longworth House Office Bldg
Washington, DC 20515

Re: Support for the Great Salt Lake Stewardship Act (H.R. 4094/S. 1955)

Dear Utah Congressional Delegation:

On behalf of The Nature Conservancy in Utah, I would like to express our support for the Great Salt Lake Stewardship Act. The Conservancy has prioritized working on the Great Salt Lake for more than three decades and has led and joined water projects throughout the state to develop creative solutions to provide water to people and nature.

We know the enormous toll caused by the loss or drying of terminal lakes around the world and the costs to human health, the environment, and economies, as well as the costs of mitigation. This legislation provides access to additional funding resources needed to increase water conservation efforts and augment water flows into the Great Salt Lake basin. Sustained drought has caused the lake levels to decline to a concerning degree. Water conservation is a top priority, and this bill recognizes the importance of advancing projects that will help to replenish the Great Salt Lake.

The Great Salt Lake Stewardship Act will enhance access to federal funding for water conservation projects by adding a new provision to the Central Utah Project Completion Act (CUPCA—Public Law 102-575). This change gives the Secretary of Interior the flexibility to reallocate unspent budget authorities within Title II of CUPCA and to put funds towards water conservation activities. Also, the bill expands the scope of the CUPCA water conservation program to now include the Great Salt Lake basin, which will greatly benefit the lake. Finally, the CUPCA program enjoys annual funding support from Congress providing a stable source of future funding for water conservation initiatives.

We appreciate the full Utah delegation joining together on this critical issue to introduce the Great Salt Lake Stewardship Act and for your efforts move towards passage. Working together we can avoid the potential for economic, public health, and ecological harm experienced by other communities faced with drying lakes.

Sincerely,

DAVE LIVERMORE,
State Director

COLORADO RIVER AUTHORITY OF UTAH

July 17, 2023

Hon. Mike Lee
U.S. Senate
Russell Senate Office Bldg
Washington, DC 20510

Hon. Mitt Romney
U.S. Senate
Russell Senate Office Bldg
Washington, DC 20510

Hon. John Curtis
U.S. House of Representatives
Rayburn House Office Bldg
Washington, DC 20515

Hon. Chris Stewart
U.S. House of Representatives
Cannon House Office Bldg
Washington, DC 20515

Hon. Burgess Owens
U.S. House of Representatives
Cannon House Office Bldg
Washington, DC 20515

Hon. Blake Moore
U.S. House of Representatives
Longworth House Office Bldg
Washington, DC 20515

Re: Support for the Great Salt Lake Stewardship Act (H.R. 4094/S. 1955)

Honorable Members of the Utah Congressional Delegation:

On behalf of the Colorado River Authority of Utah (Authority), I write to express our full support for the Great Salt lake Stewardship Act. The Authority was created in 2021 by the Utah legislature to "protect, conserve, use and develop Utah's waters of the Colorado River system." Section 63M-14-21 UCA. In accordance with our statutory mandate, the Authority supports the conservation initiatives undertaken by the Central Utah Water Conservancy District through the Water Conservation Credit Program which have yielded significant benefits to the Central Utah Project. However, the proposed expansion of this Program to include water conservation projects to benefit the Great Salt Lake would provide enormous benefit to the state by both enhancing resiliency in Utah's Colorado River water supply and restoring the Great Salt Lake—arguably the two most pressing water issues facing the Wasatch Front. This legislation provides access to additional funding resources needed to increase water conservation efforts and augment water flows into the Great Salt Lake basin, which have significantly declined due to sustained drought and have resulted in alarming drops in lake levels. Water conservation is a top priority, and this bill recognizes the importance of advancing projects that will help to replenish the Great Salt Lake.

The Great Salt Lake Stewardship Act will enhance access to federal funding for water conservation projects by adding a new provision to the Central Utah Project Completion Act (CUPCA—Public Law 102-575). This change gives the Secretary of Interior the flexibility to reallocate unspent budget authority within Title II of CUPCA and to put funds towards water conservation activities. Also, the bill expands the scope of the CUPCA water conservation program to now include the Great Salt Lake basin, which will greatly benefit the lake. Finally, the CUPCA program enjoys annual funding support from Congress providing a stable source of future funding for water conservation initiatives.

Thank you introducing Great Salt Lake Stewardship Act and for your work in advancing it through the legislative process.

Sincerely,

AMY I. HAAS,
Executive Director

FRIENDS OF GREAT SALT LAKE

July 17, 2023

Hon. Mike Lee
U.S. Senate
Russell Senate Office Bldg
Washington, DC 20510

Hon. Mitt Romney
U.S. Senate
Russell Senate Office Bldg
Washington, DC 20510

Hon. John Curtis
U.S. House of Representatives
Rayburn House Office Bldg
Washington, DC 20515

Hon. Chris Stewart
U.S. House of Representatives
Cannon House Office Bldg
Washington, DC 20515

Hon. Burgess Owens
U.S. House of Representatives
Cannon House Office Bldg
Washington, DC 20515

Hon. Blake Moore
U.S. House of Representatives
Longworth House Office Bldg
Washington, DC 20515

Re: Support for the Great Salt Lake Stewardship Act (H.R. 4094/S. 1955)

Dear Utah Congressional Delegation:

I'm writing on behalf of FRIENDS of Great Salt Lake to express our full support for the Great Salt Lake Stewardship Act. FRIENDS of Great Salt Lake is a 501c3 membership organization founded in 1994. Our mission is to preserve and protect the Great Salt Lake ecosystem and to increase public awareness and appreciation through education, research, advocacy, and the arts. Although we work on a daily basis with GSL stakeholders, policy makers and the community at large, the scope of our work goes beyond the Lake's watershed so we can learn more about the science, management challenges, and policies from regional, hemispheric, and global partners working on these unique and extremely complex saline ecosystems. FRIENDS supports this bill because the work that is required to preserve and protect what is not only a hemispherically critical ecosystem for millions of migratory birds that rely on it, but also a Public Trust resource to be managed in perpetuity for the people of Utah requires an "all hands on deck" approach. Your initiative with the introduction of the Great Salt Lake Stewardship Act endorses that responsibility and approach. Thank you.

Since 2017, FRIENDS has worked closely with the Utah Legislature in support of its work to generate important water legislation addressing the sustainable management of Utah's water supply while our population continues to grow and Great Salt Lake continues to decline. FRIENDS has been working with an array of GSL stakeholders including state, local, and federal government agencies, academia, industry and scientists. Doing this work, FRIENDS has had the particular honor and pleasure of working closely with Speaker Brad Wilson, Utah House of Representatives on timely legislation and public education to address the future of Great Salt Lake.

The Great Salt Lake Stewardship Act provides access to additional funding resources needed to increase water conservation efforts and augment water flows into the Great Salt Lake basin. Sustained drought has caused the lake levels to decline to a concerning degree. Water conservation is a top priority, and this bill recognizes the importance of advancing projects that will help to replenish the Great Salt Lake.

The Great Salt Lake Stewardship Act will enhance access to federal funding for water conservation projects by adding a new provision to the Central Utah Project Completion Act (CUPCA—Public Law 102-575). This change gives the Secretary of Interior the flexibility to reallocate unspent budget authorities within Title II of CUPCA and to put funds towards water conservation activities. Also, the bill expands the scope of the CUPCA water conservation program to now include the Great Salt Lake basin, which will greatly benefit the lake. Finally, the CUPCA program enjoys annual funding support from Congress providing a stable source of future funding for water conservation initiatives.

We live along the shores of something GREAT-Great Salt Lake. A lake that defines our history, our culture and our sense of place.

Thank you for introducing the Great Salt Lake Stewardship Act and for your work in advancing it through the legislative process.

In saline and solidarity,

LYNN E. DE FREITAS,
Executive Director

WEBER BASIN WATER CONSERVANCY DISTRICT
Layton, Utah

July 14, 2023

Hon. Mike Lee
U.S. Senate
Russell Senate Office Bldg
Washington, DC 20510

Hon. Mitt Romney
U.S. Senate
Russell Senate Office Bldg
Washington, DC 20510

Hon. John Curtis
U.S. House of Representatives
Rayburn House Office Bldg
Washington, DC 20515

Hon. Chris Stewart
U.S. House of Representatives
Cannon House Office Bldg
Washington, DC 20515

Hon. Burgess Owens
U.S. House of Representatives
Cannon House Office Bldg
Washington, DC 20515

Hon. Blake Moore
U.S. House of Representatives
Longworth House Office Bldg
Washington, DC 20515

Re: Support for the Great Salt Lake Stewardship Act (H.R. 4094/S. 1955)

Dear Utah Congressional Delegation:

The Weber Basin Water Conservancy District would like to express our full support for the Great Salt Lake Stewardship Act. With a regional water supply responsibility, our District wholesales water to and develops additional supplies for cities, districts and companies in five Utah counties, serving over 700,000 people. This legislation provides access to additional funding resources needed to increase water conservation efforts and augment water flows into the Great Salt Lake. Sustained drought has caused the lake levels to decline to a concerning degree. Water conservation is a top priority, and this bill recognizes the importance of advancing projects that will help to replenish the Great Salt Lake.

The Great Salt Lake Stewardship Act will enhance access to federal funding for water conservation projects by adding a new provision to the Central Utah Project Completion Act (CUPCA—Public Law 102-575). This change gives the Secretary of Interior the flexibility to reallocate unspent budget authorities within Title II of CUPCA and to put funds towards water conservation activities. Also, the bill expands the scope of the CUPCA water conservation program to now include the Great Salt Lake basin, which will greatly benefit the lake. Finally, the CUPCA program enjoys annual funding support from Congress providing a stable source of future funding for water conservation initiatives.

Weber Basin Water Conservancy District has been intensely involved in water conservation projects and practices for at least the past two decades, and we envision the need for even more programs into the future. The current use of our water supplies, in both the agricultural and Municipal settings, is simply not sustainable. We are encouraged by the resources this Act could bring to the Great Salt Lake Basin.

Thank you for your efforts in introducing the Great Salt Lake Stewardship Act and for your work in advancing it through the legislative process.

Sincerely,

SCOT W. PAXMAN,
General Manager/CEO

Mr. BENTZ. Thank you, Mr. Shawcroft. I now recognize Mr. Gibbons-Fly for 5 minutes.

STATEMENT OF WILLIAM GIBBONS-FLY, EXECUTIVE DIRECTOR, AMERICAN TUNABOAT ASSOCIATION, SAN DIEGO, CALIFORNIA

Mr. GIBBONS-FLY. Chairman Bentz, Ranking Member Huffman, distinguished members of the Committee, thank you for the opportunity to testify this morning. I am here to express the strong support of the American Tuna Boat Association and its members for passage of H.R. 1792 to amend the South Pacific Tuna Treaty Act to reflect amendments to the treaty adopted in 2016.

The 2016 amendments represent years of hard-fought negotiations to improve the operational conditions and flexibility for the fleet, some of which can only be realized after the necessary amendments to the implementing legislation are in place.

As just one example, Mr. Chairman, the treaty previously applied throughout wide areas of the high seas in the Western and Central Pacific. The 2016 amendments removed the high seas from under the treaty, which now applies only within waters under the jurisdiction of the Pacific Island parties. And yet, years later, U.S. law and regulations still include the high seas under the treaty, meaning our vessels cannot fish in these high seas areas without a treaty license. Without the option to fish without a treaty license, our position in negotiations with the Pacific Island States is significantly weakened, and we have been compelled to accept terms to which we would otherwise not have agreed.

H.R. 1792 resolves this and other conflicts, and its passage will provide the fleet with greater operational flexibility, clarity, and security as envisioned at the time the 2016 amendments were negotiated. This is important, Mr. Chairman, because our industry is struggling to survive.

In the past 3 years, the U.S. tuna purse seine fleet has dropped from 34 vessels to just 13 vessels operating today. The remaining vessels supply the vast majority of the tuna being processed in American Samoa, and otherwise support the local economy there.

Mr. Chairman, I have submitted with my written testimony a document prepared by the authorities in American Samoa that clearly demonstrate the overwhelming dependence of the economy of American Samoa on the tuna industry. Yet, the American Samoa-based fleet faces a number of challenges that risk further reductions in the number of vessels.

In particular, the fleet operates on an increasingly uneven playing field with respect to its international competitors, in particular, China. China and other flag states can exempt their vessels from a range of international regulatory requirements by reflagging or entering into charter arrangements with Pacific Island States who themselves are exempt from these requirements.

And yet, although the underlying convention requires that participating territories, such as American Samoa, be afforded the same treatment as the Pacific Island States, the American Samoa-based fleet is not treated in the same way, creating a vastly disproportionate burden on the tuna-dependent economy of American Samoa.

Moreover, Mr. Chairman, maintaining an active and viable U.S. tuna purse seine fleet operating in the strategically important Central Pacific Ocean is a critical counterbalance to China's growing influence across the region. China understands that building commercial and industry ties is the single-most important vector for political and economic engagement with the Pacific Island States, and China has focused strategically on developing direct commercial ties with several Pacific Island States through investments in the fisheries sector. As a result, the U.S. tuna purse seine fleet operating under the treaty contributes not only to the United States economy and to the economy of American Samoa, but to regional food security, national security, and other vital national interests.

The fleet also provides several additional sets of eyes and ears across vast reaches of the Pacific Ocean. The full implementation of the treaty amendments, as reflected in H.R. 1792 will not address all of the challenges facing the industry, but it will be one important step in the right direction.

Finally, Mr. Chairman, the treaty has always received strong bipartisan support. H.R. 1792 itself represents a bipartisan effort by Committee members Representative Radewagen of American Samoa and Representative Case of Hawaii, and we very much appreciate their leadership in moving this legislation forward.

We urge this Committee and the Full House to pass this legislation in the most expeditious manner possible. Thank you for your consideration. I would be happy to take any questions you may have.

[The prepared statement of Mr. Gibbons-Fly follows:]

PREPARED STATEMENT OF WILLIAM GIBBONS-FLY, EXECUTIVE DIRECTOR, AMERICAN TUNABOAT ASSOCIATION

ON H.R. 1792

Chairman Bentz, Ranking Member Huffman, distinguished members of the Committee, I am William Gibbons-Fly, Executive Director of the American Tunaboat Association (ATA). ATA represents the owners and operators of the U.S. flag tuna purse seine vessels operating in the Pacific Ocean under the South Pacific Tuna Treaty, the last true "distant water fishing fleet" operating under U.S. flag. ATA members are multi-generational, family-owned businesses with a long and storied history as an important part of the U.S. fishing industry.

I am here today to express our strong support for passage of H.R. 1792, to amend the South Pacific Tuna Treaty Act of 1988 to reflect amendments to the Treaty adopted in 2016 and to which the Senate provided overwhelming bipartisan support for advice and consent to ratification in 2022. Passage of the amendments in H.R. 1792 is vitally important for the U.S. fleet. The 2016 amendments to the Treaty represent years of hard-fought negotiations to improve the operational conditions and flexibility for the fleet, some of which can only be realized after the necessary amendments to the implementing legislation are in place.

The governments that are party to the Treaty, including the United States, have been applying many of the Treaty amendments provisionally under a Memorandum of Understanding adopted concurrently with the amendments themselves. However, in the absence of U.S. amendments to the implementing legislation, key provisions of the domestic regulatory regime continue to reflect aspects of the Treaty prior to the 2016 amendments being adopted. As a result, since 2017 the fleet has been operating in a kind of "limbo," with conflicts between certain operational conditions in the amended Treaty, and those reflected under the domestic regulatory regime.

As just one example, Mr. Chairman, the Treaty previously defined a "Treaty Area" and a "Licensing Area," both of which included large areas of high seas throughout the Western and Central Pacific Ocean. The 2016 Treaty amendments removed the definition of "Treaty Area" and modified the definition of "Licensing

Area" to include only the waters under the jurisdiction of the Pacific Island Parties to the Treaty. And yet, U.S. law and regulations still include the high seas in the Treaty and Licensing Areas. As a result, our vessels still cannot fish in these high seas areas without a Treaty License, even though the high seas have not been covered under the Treaty since the end of 2016. With no alternative to fish without a Treaty License, our position during negotiations with the Pacific Island States is significantly weakened and we have been compelled to accept terms to which we would otherwise not have agreed.

H.R. 1792 resolves this and other conflicts, and its passage will provide the fleet with greater operational flexibility, clarity and security.

This is important, Mr. Chairman, because our industry is struggling to survive. In the past three years, the U.S. tuna purse seine fleet has been reduced from 34 vessels to just 13 vessels operating today. The remaining vessels supply the vast majority of the tuna being processed in American Samoa and otherwise support the local economy there by utilizing a range of goods and services provided by local businesses. The economy of American Samoa is overwhelmingly dependent on the tuna industry and the related service industries that support both the StarKist facility and the vessels based there. The future of the U.S. purse seine fleet and the future of American Samoa are inextricably and undeniably linked. I have attached to this testimony a recently prepared document that makes the highly interdependent nature of this relationship abundantly clear.

And yet, the American Samoa-based fleet faces a number of challenges that risk further reductions in the number of vessels operating in the region. These include a combination of domestic regulatory requirements, increasingly onerous terms and conditions for access to fishing in the waters of the Pacific Island States, and increased foreign competition. In particular, Mr. Chairman, the fleet operates on an increasingly uneven playing field with respect to its international competitors, in particular China. On one hand, China and other flag states are able to exempt their vessels from a range of international regulatory requirements by reflagging or entering into charter arrangements with Pacific Island States who themselves are exempt from these requirements. And yet, although the underlying Convention requires that "Participating Territories" such as American Samoa be afforded the same treatment as the Pacific Island States, the America Samoa-based fleet is not treated in the same way, creating a vastly disproportionate burden on the tuna dependent economy of American Samoa and people who depend on the industry for their livelihood.

On the other hand, Chinese flag tuna vessels figure prominently in many global reports on Illegal, Unreported and Unregulated (IUU) fishing as well as the use of forced labor, large government subsidies to the fisheries sector, and other factors. Although these practices directly undermine the conservation objectives of the United States and various international fisheries management regimes, they also provide Chinese fisheries products, tuna and otherwise, with an inherent competitive advantage in the marketplace with which is increasingly difficult for our industry to compete.

Moreover, Mr. Chairman, maintaining an active and viable U.S. tuna purse seine fleet operating under the Treaty in the strategically important central Pacific Ocean is a critical counterbalance to China's growing influence across the region. China has focused strategically on developing direct commercial ties with several Pacific Island States through investments in the fisheries sector, both through the activities of its vessels as well as shoreside investments. China understands that building commercial and industry ties is the single most important vector for political and economic engagement with the Pacific Island States.

The Treaty not only provides access for U.S. vessels to fish throughout the region but is an increasingly important point of engagement between the United States government and the Pacific Island States on a wide range of economic and maritime security issues. As a result, the purse seine fleet operating under the Treaty contributes not only to the United States economy and, especially the American Samoan economy, but to regional food security, national security, and other vital national interests. The fleet also operates as several additional sets of "eyes and ears" across vast reaches of the Western and Central Pacific Ocean. The full implementation of the Treaty Amendments through the enactment of this legislation will not address all of the challenges facing the industry, but it will be an important step in the right direction as we work to ensure these continuing contributions to fundamental U.S. interests in the region.

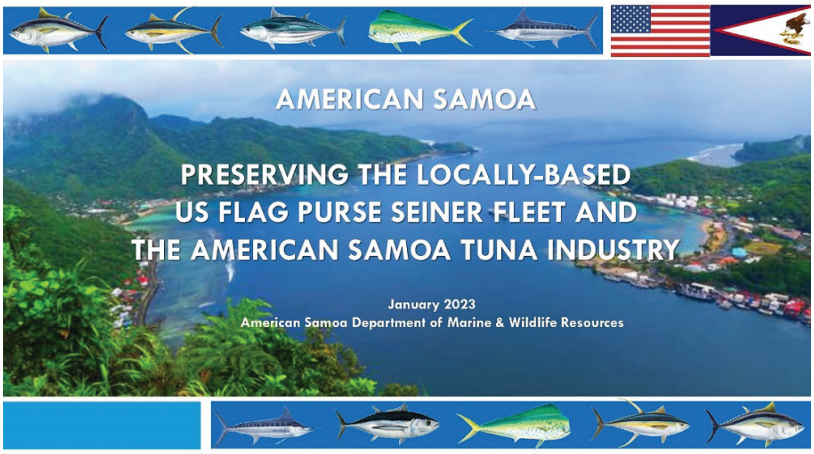
Finally, Mr. Chairman, the Treaty has always received broad bipartisan support and we would not expect passage of the legislation to be controversial. As noted at the outset, this bipartisan support was clearly reflected in the April 2022 hearing in the Senate Foreign Relations Committee to consider the 2016 amendments.

Likewise, the vote of the full Senate for advice and consent to ratification was without objection. H.R. 1792 itself represents a bipartisan effort by Committee Members Rep. Amata Radewagen of American Samoa and Rep. Ed Case of Hawaii and we very much appreciate their efforts to move this forward.

We urge this Committee and the full House to pass this legislation in the most expeditious manner possible.

Thank you for your consideration. I am happy to answer any questions you may have.

ATTACHMENT



Tuna Economy

- American Samoa's non-governmental economy is almost entirely built on tuna-related commerce.
- The tuna industry provides **83.8 percent of American Samoa's private employment**
- It accounts for 99.5 percent of exports from the territory.
- The American Samoa population, 85 percent of which are indigenous Samoans, depend heavily on the tuna cannery in Pago Pago to provide food security for the region.

Tuna canning in American Samoa started in the 1954 by Chicken of the Sea and 1963 by StarKist.
Chicken of the Sea closed its cannery at the end of 2009. Tri Marine bought the cannery, demolished most of it, and invested about $100 million to develop a modern tuna cannery with updated infrastructure.
That cannery started production in 2015 and then closed down in 2016 due to adverse market conditions. The former Tri Marine cannery is being leased to StarKist.

2

Dependency on the US Market for Shelf Stable Tuna Products

- The StarKist tuna cannery in American Samoa employs about 2,000 workers
- This cannery processes about 100,000 tons of tuna a year
  - This equates to about 500 million cans of tuna
- Almost all of the production from the StarKist cannery goes to the US market
- **The cost of canned tuna production in American Samoa is substantially higher than competing sources of shelf stable tuna products like Thailand, Vietnam and Indonesia**
  - American Samoa is not competitive in other markets
  - Energy, labor, logistics, and packaging are all more expensive
  - Partially offsetting these cost disadvantages are savings in the cost of fish supply and duty exemptions

3

US Market for Shelf Stable Tuna Products

Product and Source			Albacore	*convert*	Rd Tons	Light Meat	*convert*	Rd Tons
Loins		Imported	26,001	*58%*	44,829	51,724	*43%*	120,288
Pouch	Oil	Imported	-	-	-	1,423	*1.4*	1,921
Pouch	Oil	Am Samoa	-	-	-	1,277	*1.4*	1,724
Pouch	Water	Imported	4,329	*1.3*	5,628	33,464	*1.4*	45,176
Pouch	Water	Am Samoa	2,415	*1.3*	3,140	2,781	*1.4*	3,754
Cans	Oil	Imported	748	*1.3*	972	4,667	*1.4*	6,300
Cans	Oil	Am Samoa	956	*1.3*	1,243	9,123	*1.4*	12,316
Cans	Water	Imported	20,010	*1.3*	26,013	94,310	*1.4*	127,319
Cans	Water	Am Samoa	19,816	*1.3*	25,761	45,870	*1.4*	61,925
					107,586			**380,724**

Source: 2014 US Customs Data

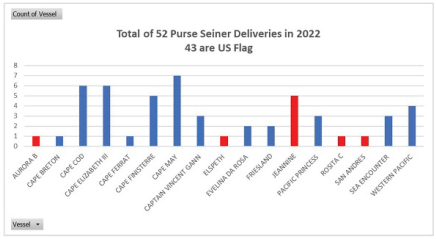
4

Without Tuna Supply the American Samoa Tuna Economy will Perish

- American Samoa needs about 70,000 tons of tuna caught by purse seiners
- While fishing economics favor foreign flag operation, foreign flag purse seiners generally avoid American Samoa
  - Distance from fishing grounds, USCG, logistics, limited flights for crew, potential unloading delays, etc.
- There has been a steady decline in the Territory's locally based U.S. flag purse seiner fleet because boats have been changing flags and areas of operation to save costs and take advantage of better fishing conditions available to non-US flag fishing boats.
- There were 40 U.S. flag purse seiners in 2015. Now, there are only 13. One of these operates exclusively in the Eastern Tropical Pacific

5

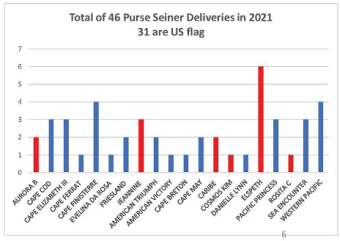
Direct deliveries of tuna to American Samoa by purse seiners

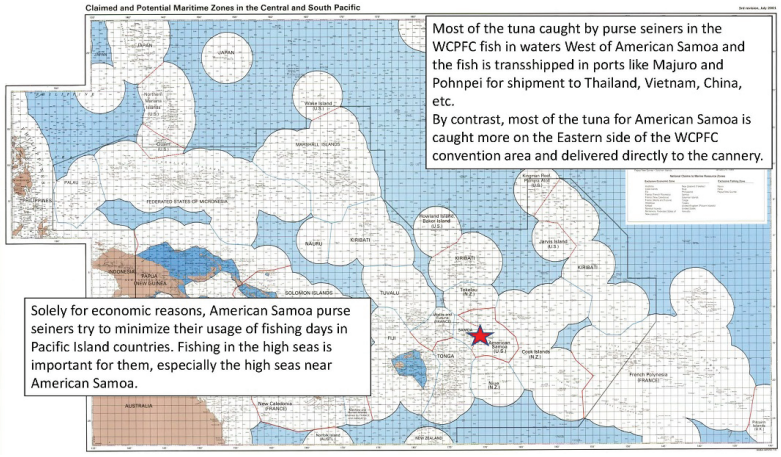


Deliveries by non-US flag purse seiners are indicated in red

Data provided by American Samoa Port Administration

Conclusion: **American Samoa's tuna industry depends on direct deliveries of tuna from US flag purse seiners**

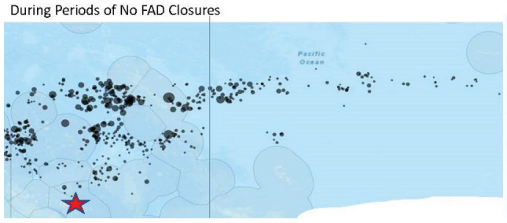




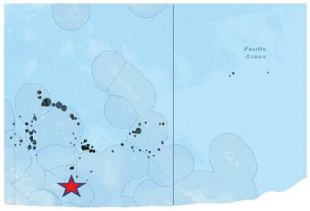
Most of the tuna caught by purse seiners in the WCPFC fish in waters West of American Samoa and the fish is transshipped in ports like Majuro and Pohnpei for shipment to Thailand, Vietnam, China, etc.
By contrast, most of the tuna for American Samoa is caught more on the Eastern side of the WCPFC convention area and delivered directly to the cannery.

Solely for economic reasons, American Samoa purse seiners try to minimize their usage of fishing days in Pacific Island countries. Fishing in the high seas is important for them, especially the high seas near American Samoa.

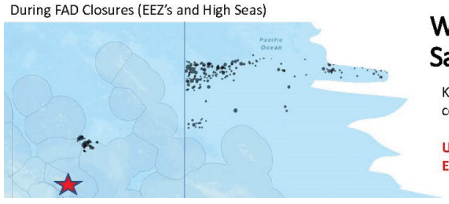
During Periods of No FAD Closures



During Two Month High Seas FAD Closure



During FAD Closures (EEZ's and High Seas)

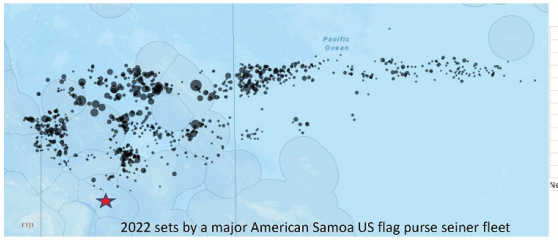


Where do the many of American Samoa tuna purse seiners fish?

Kiribati, Tokelau, Tuvalu and Cook Islands are the most common EEZ's for the American Samoa purse seiner fleet

US waters for US flag purse seiners with Fisheries Endorsements and the high seas are critically important

The Higher Value Latin American Market is often an Attractive Alternative



2022 sets by a major American Samoa US flag purse seiner fleet

	Pago	Mazatlan
Fishing Days	50	50
Trip Days	67	76
Fish Price	$1,550	$1,850
Net Revenue	$2,010,777	$2,455,653
Crew Pay	$333,500	$333,500
Fuel	$725,760	$853,060
Trip Supplies	$100,000	$100,000
License Fees	$21,775	$24,700
Insurance	$134,000	$152,000
Net Income	**$237,422**	**$465,085**
Depreciation	$227,800	$258,400
Net Income aft. Depr.	$9,622	$206,685

- The market price for tuna delivered to Latin American canneries is typically $150 per ton higher than Bangkok
- Bangkok less $150 per ton is the benchmark price for American Samoa price
- The price difference between American Samoa and Latin America is therefore about $300 per ton
- Including premium pricing for yellowfin, the difference in revenue is about $500,000
- Offsetting this additional revenue is lost fishing time and more fuel consumption
- **The proximity of fishing near American Samoa is a major determining factor**

9

The Global Tuna Industry is Driven by Fishing Economics

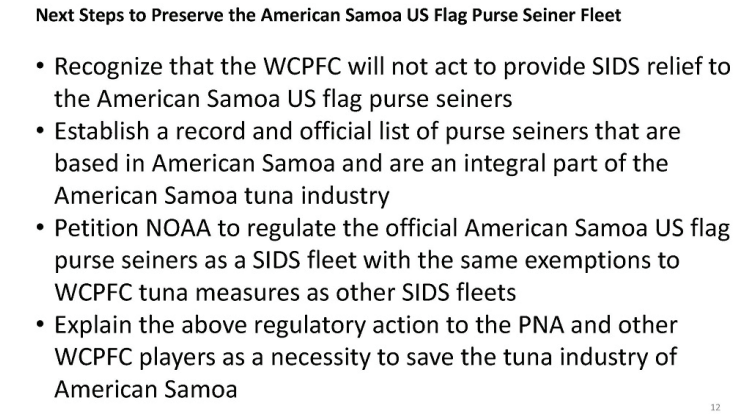
- Boatowners choose flags that give them the lowest cost of catch per ton
  - Cost of crew
  - Cost of insurance, especially P&I (cost of US Jones Act)
  - Cost of compliance
  - Cost of access to fishing grounds
  - **Access to fishing grounds and availability of exemptions from fishing restrictions**
- The American Samoa US flag purse seiner fleet is not exempt from any fishing restrictions despite the fact that American Samoa is a Small Island Developing Territory and is therefore eligible for exemptions from certain WCPFC tuna management measures

10

WCPFC Dynamics and SIDS Exemptions for American Samoa's US Flag Purse Seiners

- The WCPFC is a consensus-based organization
- Most of the purse seiner fishing occurs in the EEZ's of the PNA countries, all of which are SIDS
- PNA countries have grown their domestic purse seiner fleets, flagged or chartered, by delivering exemptions to certain tuna management measures, e.g., FAD closures and unlimited access to the high seas, and discounting the cost of fishing access (vessel days scheme)
- PNA is not interested in sharing their "competitive advantage" with non PNA fleets
- Importantly, American Samoa does not have a flag registry. American Samoa vessels fly the US flag and have a US identity, not an American Samoa identity.
- **Therefore, these boats are regulated as US flag boats, not as a SIDS fleet**

11



Mr. BENTZ. Thank you. I now recognize Ms. Genest for 5 minutes.

STATEMENT OF GENEVIEVE GENEST, DONOR RELATIONS MANAGER, GALVESTON BAY FOUNDATION, KEMAH, TEXAS

Ms. GENEST. Chairman Bentz, Ranking Member Grijalva, and members of the Subcommittee, thank you for the opportunity to provide testimony to the House Natural Resources Subcommittee on Water, Wildlife and Fisheries. My name is Genevieve Genest, and I am the Donor Relations Manager for the Galveston Bay Foundation, GBF, a non-profit working across the Houston-Galveston, Texas region since 1987 to preserve and enhance Galveston Bay as a healthy and productive resource for generations to come.

I have served at GBF for 7 years, and I am here today to express my organization's support for H.R. 2950, the Coastal Habitat Conservation Act of 2023, which would authorize the Fish and Wildlife Service Coastal Program.

GBF works in science-based program areas, including habitat restoration, land conservation, education, advocacy, and water protection, through which we proudly partner with recreational, commercial, governmental, and industrial user groups, including U.S. Fish and Wildlife Service, to find lasting solutions to the challenges confronting our shared resource: Galveston Bay.

GBF is also a member of Restore America's Estuaries, an alliance of 10 coastal restoration organizations around the country working to create more resilient coastal communities by protecting estuary and habitats to enhance the ecosystem, economic and national security benefits they provide. Many of these organizations are also beneficiaries and partners of the Coastal Program.

For over two decades, the coastal program has been a key partner for GBF, both as a reliable source of financial support and a powerful tool for accessing and leveraging additional funding. Over the years, the Coastal Program has invested over $570,000 in GBF

projects, and leveraged $25 million in partner contributions to help GBF successfully restore and protect over 8,000 acres of coastal habitat to the Galveston Bay ecosystem and economy.

Galveston Bay is Texas' largest bay and seventh largest in the United States. Its watershed is home to over 14 million Americans. The Bay Region supports a third of fisheries in Texas, billions of dollars in economic activity, and 40 percent of the United States' base petrochemical capacity as the location of the largest container port in the Gulf of Mexico, the Port of Houston.

As an estuary, Galveston Bay is one of the world's most productive ecosystems. Its habitats, like oyster reef and wetlands, provide numerous ecosystem services to the community such as outdoor recreation, tourism, enhanced water quality, reduced property loss, and nurseries for marine and wildlife species. Plus, many studies show that healthy, intact ecosystems in regions prone to tropical storms and hurricanes like Galveston Bay can reduce the impact of flooding and storm surge, saving lives and millions of dollars. Therefore, coastal habitat and economic investments made through the Coastal Program are also investments in protecting people and coastal resiliency.

Developed in 1985, the Coastal Program protects, conserves, and restores coastal ecosystems with a primary focus on voluntary habitat conservation efforts on public and private lands through partnerships with various organizations, landowners, and agencies. To make this work happen, the Coastal Program offers much more to GBF and our partners than just dollars. Staff help foster collaboration and guide project planning, and the program is an invaluable go-to resource for expertise, technical assistance, and strategic advice throughout the life of many projects, even when program funds are not directly involved.

In total, the program has engaged over 8,200 conservation partners to complete more than 4,900 conservation projects, improve 600,000 acres, protect another 2.3 million acres of priority habitat, and help downlist at least 15 species.

One of many examples of this partnership's success is GBF's Moses Lake Shoreline Protection Project, which has protected 5,000 feet of eroding shoreline and restored 110 acres of wetland and oyster habitat in Galveston Bay. We designed a rock breakwater to allow marsh grass to take root and grow along the shoreline, creating habitat, improving flood resilience, benefiting Federal trust species, and supporting the region's commercial fishing industry and recreational opportunities.

After completion, GBF organized marsh planting events that engaged local students, community members, and corporate volunteers in the process of restoring all 110 acres. None of this would have been possible without the Coastal Program's technical guidance, partner development, and financial support, which in turn helped GBF secure an additional $3 million for this project.

I personally planted some of the marsh grass at this now-flourishing project site near my hometown, and have participated in and seen firsthand the positive impact of many of GBF's successful and beneficial restoration projects supported by the Coastal Program.

Galveston Bay Foundation and our partners would like to thank Ranking Member Huffman and Representative González-Colón for their leadership on this important issue. Thank you.

[The prepared statement of Ms. Genest follows:]

PREPARED STATEMENT OF GENEVIEVE GENEST, DONOR RELATIONS MANAGER, GALVESTON BAY FOUNDATION

ON H.R. 2950

Introduction

Chairman Bentz, Ranking Member Huffman, and members of the subcommittee, thank you for the opportunity to provide testimony to the House Natural Resources Subcommittee on Water, Wildlife, and Fisheries. My name is Genevieve Genest, and I am the Donor Relations Manager for the Galveston Bay Foundation (GBF) in the Houston—Galveston Region.

I am here today to express my organization's support for H.R. 2950, the Coastal Habitat Conservation Act of 2023 and encourage the Members of this subcommittee to support it, as well.

GBF is a nonprofit that has served as the guardian of Galveston Bay since 1987. Our mission is to preserve and enhance Galveston Bay as a healthy and productive place, so it remains fishable and swimmable for generations to come. Our core programs areas include habitat restoration, land conservation, education, advocacy, and water protection. Through these programs we work across a 5-county area to facilitate a true cross-section of Bay interests by collaborating with recreational, commercial, and industrial users to find creative, inclusive, and forward-thinking solutions to the challenges confronting Galveston Bay.

Galveston Bay is the largest Bay in Texas and the 7th largest in the United States, covering 600 square miles. Its watershed covers 24,000 square miles and is home to more than 14 million Americans, including both Houston and Dallas. The Galveston Bay region supports billions of dollars in economic activity and 40% of the United States's base petrochemical capacity as the location of three major ports, including the port of Houston, the largest container port in the Gulf of Mexico.

As an estuary, Galveston Bay is one of the world's most productive ecosystems. Its coastal habitats provide numerous benefits to the greater Houston-Galveston community, such as supporting ⅓ of Texas's fisheries industry, enhancing water quality through natural filtration processes, preventing property loss from erosion, providing flood and storm protection, and sustaining recreational and tourism industries that support more than 5,000 jobs.

Through actions and partnerships, including with the U.S. Fish and Wildlife Service, and a commitment to sound science and research, GBF has protected over 16,000 acres of natural lands and engaged tens of thousands of community members through volunteer and public outreach opportunities.

Additionally, Galveston Bay Foundation is a member of Restore America's Estuaries, an alliance of 10 coastal restoration organizations around the country working to protect estuaries, bays, and coasts and enhance the value of these areas for the ecosystem, economic, and national security benefits they provide. Many of these organizations are also beneficiaries and supporters of the Program I'm here to discuss.

U.S. Fish and Wildlife Service Coastal Program

For more than two decades, GBF has worked closely with the U.S. Fish and Wildlife Service Coastal Program to restore and protect more than 8,000 acres of critical coastal habitat in Galveston Bay. These projects support species conservation, habitat connectivity, and create more resilient communities. By conserving these habitats, GBF and the Service have been able to sustain ecosystem services and functions that are critical to coastal communities, including tropical storm protection, outdoor recreation, and nurseries for economically important fish and wildlife. Through these projects, the Coastal Program has invested more than $570,000 and leveraged more than $25 million in partner contributions for the Galveston Bay ecosystem and economy.

The Coastal Program has been a key partner for GBF both directly as a reliable source of financial support and indirectly as a powerful tool for accessing and leveraging additional private and public funding sources for high priority projects.

It also offers much more to GBF and our partners than just dollars. The Coastal Program has been an invaluable partner throughout the life of many projects as a go-to resource for expertise, technical assistance, and strategic advice. Program staff

help foster collaboration among stakeholders and guide the project planning process, sometimes even when Coastal Program funds are not directly involved. All these services are at the disposal of partner organizations like GBF to help translate community needs into project ideas and execution.

Moses Lake Shoreline Protection Project (Texas)

One example of the impact this technical expertise and financial support provides can be found at our Moses Lake Shoreline Protection Project. Between 2013 and 2015, the Coastal Program uplifted a partnership of federal and state agencies and NGOs, including the Galveston Bay Foundation and The Nature Conservancy, to construct a breakwater to protect 5,000 feet of rapidly eroding shoreline and support the restoration of 110-acres of wetland habitat in Moses Lake in western Galveston Bay.

This project included installing a rock breakwater, creating oyster reefs, and restoring marsh habitat, all of which provide significant benefits to fish and shellfish, migratory and resident waterfowl, and shorebirds. The project location is important to the region's commercial fishing industry and supportive of a wide range of recreational activities, such as fishing and boating, so there was a widely acknowledged need and desire to undertake a restoration project of this size.

Additionally, the wetlands in this area had been lost over time due to subsidence and erosion, and the breakwater project was designed to allow sediment to deposit and accumulate between the protective barrier and the shoreline, elevating the bay bottom enough to enable marsh grass to take root and restore the ecosystem to a more natural state.

As a partner, the Coastal Program provided technical support and guidance, as well as $125,000 in direct financial support for this project. GBF and our partners leveraged this initial investment to secure a nearly $3 million National Coastal Wetland Conservation Grant for this project.

Following completion of the breakwater project, GBF was able to engage and educate local community and corporate partners in the habitat restoration process by organizing several successful volunteer-based marsh cordgrass plantings. In 2018, volunteers and students helped complete the planting of all 110-acres of marsh that will promote coastal resiliency, improve water quality, reduce coastal erosion and flooding, revitalize oyster reefs, and benefit federal trust species including interjurisdictional fish and migratory birds for decades to come.

Additionally, the project success prompted an adjacent private landowner to sell 100 acres to GBF to permanently protect wetlands near the restoration site in lieu of developing it, furthering the impact of the project. None of this would have been possible without financial and technical assistance from the USFWS Coastal Program.

In a region prone to tropical storms and hurricanes, an investment along our coast is not just about preserving ecosystems and enhancing recreational or commercial opportunities, they're also an investment in protecting the people and communities of Galveston Bay. Many studies have shown that healthy, intact ecosystems like oyster reefs, seagrass, and wetlands substantially reduce the impact of storms—protecting property, saving lives, and providing peace of mind.

Oyster Shell Recycling and Reef Restoration

Additionally, the partnership with the Service has allowed us to expand our oyster shell recycling and reef restoration programs and engage public and private landowners to restore shoreline and protect lives and livelihoods from storms and flooding while also improving water quality. Galveston Bay used to supply 80% of Texas's oysters, but in the past 15 years, the Bay has lost more than 60% of its natural oyster reefs due to damage from overharvesting, trawling, disease, and natural disasters, like hurricanes. Healthy oyster populations are critical to the health of Galveston Bay as a whole. They filter pollution and provide shelter, food and breeding ground for baby oysters, crabs, shrimp, fish and other wildlife, and importantly, support the thriving commercial seafood industry upon which thousands of individuals and businesses depend.

In 2012, GBF launched an Oyster Shell Recycling Program which currently partners with over 30 local Houston-Galveston restaurants to collect their shucked oyster shells and return them to Galveston Bay as new oyster reef. To date, the program has diverted over 1,000 tons of oyster shells from landfills.

Much of the growth and success of our shell recycling efforts can be attributed to the Coastal Program. Coastal Program funding has enabled GBF to engage public and private partners, community and corporate volunteers, and students in three oyster reef construction and restoration projects located in popular fishing areas that have experienced historical habitat and shoreline degradation over the years.

Coastal Program funds aided with collection and transportation of recycled oyster shells to the project sites. Over the course of the project, a total of 4,000 community and student volunteers helped build 2,200 feet of oyster reef to act as a natural breakwater for eroding shorelines, create new oyster habitat, and facilitate marsh restoration.

In total, funding and support received through the Coastal Program helped return 760 tons of oyster shells to Galveston Bay and restore 32,000 square feet of critical oyster reef habitat.

H.R. 2950—Coastal Habitat Conservation Act of 2023

The Coastal Habitat Conservation Act of 2023 would help build upon the successful record of accomplishment of the U.S. Fish and Wildlife Service Coastal Program. The Program was developed in 1985 to protect, conserve, and restore coastal ecosystems with a primary focus on voluntary habitat conservation efforts on public and private lands through partnerships with various agencies, organizations, and landowners. Almost 40 years later, the Service works in 24 priority coastal areas and has engaged an extensive portfolio of diverse partners for the protection of priority species and habitats. In total, the Program has engaged more than 8,200 conservation partners to complete more than 4,900 conservation projects, improved more than 600,000 acres, and protected another 2.3 million acres of priority habitat and supported the downlisting of at least 15 species.

In 2022 alone, the Coastal Program provided $4.3 million in support of 185 projects. This investment was leveraged with $39.5 million in partner contributions; a staggering 1:9 ratio. The 223 project partners protected more than 31,000 acres of coastal habitat and restored an additional 13,000 acres.

However, funding for the Coastal Program has remained stagnant since at least 2014, with annual appropriations hovering between $13 and $14 million. H.R. 2950 would authorize and provide a much-needed boost for this critical program through fiscal year 2028, with funding increases to occur gradually over the five-year period. This funding increase would serve to expand existing partnerships, engage new partners, and further the mission of this highly effective, cooperative, voluntary program. Although funding has remained stagnant, demand from potential partners and for worthy and increasingly necessary projects has only increased, and approved priority coastal areas, such as the Columbia River Estuary and Georgia coast, remain unstaffed and under engaged despite the demand and need for projects and expertise.

With the passage of this proposed authorization, and increased funding, Galveston Bay Foundation and the countless partners of the Coastal Program could make serious headway towards further protecting vulnerable coastal ecosystems and communities in the face of severe storms, sea level rise, and pollution while also improving the economic output of the many industries that rely on them.

We would like to thank Ranking Member Huffman and Representative González-Colón for their leadership on this important legislation and we encourage the members of this Subcommittee to approve this needed authorization and funding increase.

Mr. BENTZ. Thank you, Ms. Genest, and I now recognize Mr. Atkinson for 5 minutes.

STATEMENT OF SETH ATKINSON, QUILLBACK CONSULTING, SANTA CRUZ, CALIFORNIA

Mr. ATKINSON. Chairman Bentz, Ranking Member Huffman, members of the Subcommittee, thank you for the opportunity to testify today. My name is Seth Atkinson. I am a fishery policy consultant and attorney, and my clients include both conservation and commercial fishermen. My comments today are on H.R. 4587, the red snapper legislation which would prohibit fishery managers in the South Atlantic from using area-based management until a study known as the Great Red Snapper Count is complete.

First and most broadly, this bill conflicts with how science is used in fishery management under the Magnuson-Stevens Act. Under that law, managers must base their decisions on the best

scientific information available. And the key word here is available. Science is an ongoing process in which data are always coming in, methodologies change, and new techniques are developed, and each iteration tends to represent the cutting edge of knowledge until newer science comes along.

Requiring managers to act on the best scientific information available is a key part of the law because it ensures management can actually proceed on a common factual basis. Without it, fishery management would be paralyzed by arguments over what the basic facts are.

Under the Magnuson-Stevens Act framework, it is not appropriate to ignore the current best scientific information available and wait for some future study in hopes of getting different results. Here the best scientific information available is from SEDAR 73, the stock assessment for red snapper completed in 2021. That assessment indicated the red snapper population is recovering, and its abundance is at high levels. That is excellent news.

The assessment also indicated, however, that the vast majority of red snapper are young fish. Older red snapper contribute much more to stock productivity. So, despite the high abundance numbers, the stock is not yet rebuilt. Managers essentially need to allow enough of these abundant youngsters to survive so they can restore the age structure of the stock. And this in turn means bringing fishing pressure down, because the stock assessment also found that current fishing mortality rates are high enough that they constitute over-fishing.

And over-fishing in this case is being driven by dead discards from the recreational sector, which were found in recent years to comprise around 83 percent of total catch. That is discards plus landings, so 83 percent of all of that. How that is possible is because, even when managers close the red snapper season, meaning the species cannot be landed, red snapper is still caught by fishermen targeting other species in the same mixed bottom fish assemblage. It is effectively year-round open access, only that all the red snapper caught must be released, and some of them end up dying.

Meanwhile, the fishing power of the recreational sector has steadily increased in recent decades with coastal population growth combined with new technologies, more powerful boats. It means both effort and efficiency of this sector are extremely high.

And this is a genuinely difficult management situation. The South Atlantic Council and NOAA fisheries are responsible for making management decisions under the Magnuson-Stevens Act, and they will need a range of options available to them. For that reason, the prohibition on area-based management in H.R. 4587 is concerning. It takes a tool out of the toolkit.

The idea of relying on the Great Red Snapper Count as a way to avoid these management challenges also is concerning.

First, that study won't be completed and integrated into an assessment for several more years. Managers have a real opportunity now, given the strong year classes recently, to shepherd those young fish along and get the stock rebuilt. Waiting could mean we lose that opportunity.

Second, we can't be sure what the Great Red Snapper Count will show, and there is a number of scenarios in which it does not necessarily help to get the stock declared rebuilt or allow for a huge amount more yield. Neither of those are guaranteed results from the study.

And third, the existing management challenges will need to be addressed, if not with red snapper today, it will be tomorrow with red porgy, black sea bass, great triggerfish, which are trending downward or in the same assemblage, and are subject to the same recreational fishery.

In closing, I just note on a basic human level that commercial fisherman in the South Atlantic have been subject to strict management for decades now, and there was no arbitrary suspension of the rules for them, nor should there have been. And I know for many that makes the approach of H.R. 4587 difficult to accept.

Thank you. I am happy to answer any questions.

[The prepared statement of Mr. Atkinson follows:]

PREPARED STATEMENT OF SETH ATKINSON, QUILLBACK CONSULTING

ON H.R. 4587

Chairman Bentz, Ranking Member Huffman, and members of the Subcommittee, thank you for the invitation to testify today.

My name is Seth Atkinson. I am an attorney, and my practice focuses on the management of fisheries in federal and state waters. My clients include both conservation groups and commercial fishermen. I have 13 years of experience with fishery management issues from around the country, as both a staff attorney at a nonprofit organization and as a private consultant and attorney.

I have been invited to speak today on H.R. 4587, the South Atlantic red snapper legislation before this Subcommittee. What that bill would do is prohibit the use of area management for South Atlantic snapper-grouper species until a population estimation exercise known as the "South Atlantic Great Red Snapper Count" is completed, and data from that exercise have been incorporated into a formal stock assessment.

Before I get into the substance of my testimony, I should note that I am currently representing commercial fishermen in a lawsuit that deals with this same fishery—the South Atlantic snapper-grouper fishery—and specifically the red snapper stock, although the issues and arguments focus on a somewhat different aspect of management, namely the setting of annual catch limits. That case is entitled *Slash Creek Waterworks et al. v. Raimondo*, and the case number is 23-cv-1755 in the U.S. District Court for the District of Columbia. As this is an active case, my testimony here will stay limited to H.R. 4587 and the associated management issues for South Atlantic red snapper.

1. H.R. 4587 Conflicts with the Magnuson-Stevens Act Process for Bringing Scientific Information into Management

First and most broadly, the approach proposed in H.R. 4587 is not, and should not be, how science is used in fishery management under the Magnuson-Stevens Fishery Conservation and Management Act. Specifically, managers should not pause action for several years to wait for some future scientific study that may give different results.

Under the Magnuson-Stevens Act, the Regional Fishery Management Councils and the National Marine Fisheries Service, or NOAA Fisheries, respond to the best scientific information available when managing our fishery resources, and they adapt and update fishery management as new scientific information becomes available. This approach reflects both the realities of the fisheries science process, as well as the Act's legal standard governing the use of science.

Scientific information on fish populations is gathered on a continual basis and is synthesized into stock assessments periodically. The whole process is dynamic; data are always coming in, methodologies change as new techniques are developed or assumptions are revised, and each iteration tends to represent the cutting edge of knowledge until newer science comes along. That is how the scientific process works.

The Magnuson-Stevens Act's legal standard is crafted with exactly this iterative process in mind. National Standard 2 requires the Councils and agency to use the "best scientific information available," and the key word here is "available." Information on fish populations is never perfect, and, as just noted, it changes over time. The National Standard 2 language was designed to acknowledge the evolving nature of our scientific understanding, as it requires use of what is "available" without waiting for some far-off day when perfect information arrives. NOAA Fisheries itself has acknowledged as much, stating in its regulatory guidelines interpreting National Standard 2 that "mandatory management decisions should not be delayed due to limitations in the scientific information or the promise of future data collection or analysis."[1]

This is an essential part of the bargain with fishery management under the Magnuson-Stevens Act. Nearly everyone ends up frustrated with the science at some point, regardless of their priorities and views. But the National Standard 2 requirement for best available science ensures that management can actually proceed on a common factual basis, rather than getting bogged down in endless disagreements. This common factual basis is a critical part of the Magnuson-Stevens Act, and also shows up in a number of other federal natural resource and environmental laws.[2]

So by proposing to put management on hold for a few years while one particular scientific study is finished, H.R. 4587 goes against the fundamental process for integrating science into management that has been hammered out, agreed to, and relied upon in Magnuson-Stevens Act management for the last forty-plus years.

2. Area Management May Be an Important Tool and Should Not Be Removed from the Council and NOAA Fisheries' Toolbox

The next thing to note about the bill is that it needlessly precludes the South Atlantic Council and NOAA Fisheries from using area-based management in the snapper-grouper fishery. Area management can take many forms and be used for different purposes, and it is important for managers to be able to turn to this tool when necessary.

To understand why area-based management could be important here, it helps to step back and review the status of South Atlantic red snapper. The best available scientific information currently is from SEDAR 73, a stock assessment completed by the Southeast Fisheries Science Center in 2021.[3] That assessment indicated the red snapper population is recovering, and that its abundance is at high levels. This is excellent news.

The assessment also indicated, however, that the vast majority of South Atlantic red snapper are young fish.[4] The reproductive capacity of red snapper increases significantly as the fish get older and larger, so these young fish, while abundant, contribute relatively less to the population's productivity. In technical terms, spawning stock biomass is lagging behind abundance, and the stock is still overfished and needs to finish rebuilding. Because of this dynamic where older fish contribute more to productivity, rebuilding for South Atlantic red snapper means allowing the age structure to recover—such that a higher proportion of individuals in the population are from the older age classes. And for a species that can live over fifty years, this can take a while.

It is not just a matter of waiting for the age structure to recover, though; fishing pressure must be brought down to a level where some of today's abundant young fish can survive and get older. Which brings us to the other main finding from the SEDAR 73 assessment—that current fishing mortality rates are high enough that they are *not* allowing sufficient numbers of fish to survive and grow older, and in fact, current fishing mortality rates are so high that they constitute overfishing.

In terms of fishery sectors and catch, the commercial fishery currently only removes a small amount from the population. SEDAR 73 data shows commercial landings and discards combined amount to around 5–6% of total red snapper catch by weight in a given year.[5] Recreational landings also are not large, at around 11% of total catch. This makes sense, because only a 2 or 3 day directed recreational season has been allowed recently. It is recreational dead discards, however, that are sizable: around 83% of total red snapper catch in the South Atlantic comes in the

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[1] 50 C.F.R. § 600.315(a)(6)(v).

[2] *See, e.g.*, 16 U.S.C. § 1533(b)(1)(A) (Endangered Species Act); 42 U.S.C. § 300g-1 (Safe Drinking Water Act); 15 U.S.C. §§ 2617, 2625 (Toxic Substances Control Act).

[3] Southeast Data, Assessment, and Review, SEDAR 73: South Atlantic Red Snapper (Mar. 2021).

[4] *See, e.g., id*. Section II, at 100 (Figure 14, displaying age class contributions to total abundance).

[5] This and subsequent percentages are terminal three-year averages from SEDAR 73 estimated landings and discards, by weight, as set forth in Tables 20 and 22. *See id*. at 64, 66.

form of recreational dead discards. Recreational dead discards are high enough, on their own, to drive overfishing of this stock.

This is happening because red snapper is part of a multispecies assemblage, which includes several other popular bottomfish species. The way South Atlantic management currently works is that even when the red snapper season is "closed," meaning red snapper cannot be landed, recreational fishermen can still go out and fish for other species in the same assemblage, they just have to throw back any red snapper that end up on their line. So with year-round open access recreational fishing—even charter licenses are unlimited—there are a tremendous number of hooks in the water, catching a huge amount of young red snapper, and these fish are then thrown back overboard. And what the stock assessment has shown is that dead discards are having enough of an impact on the population that it is struggling to replenish the older age classes.

And stepping back a bit further, this is all a reflection of the fact that recreational fishing in the Southeast has radically changed, and today's fishery does not resemble the recreational fishery of the 1950s and 1960s. It is not a handful of people in skiffs with underpowered outboard motors, or perhaps dangling a line off the side of a sailboat. Today's recreational fishery is comprised of a substantial portion of the coastal population in the Southeast—which itself has dramatically increased in past decades—and consists of millions of angler trips each year. In the South Atlantic alone, NOAA Fisheries estimated over 70 million angler trips were taken in 2020.[6] And many of these involve large fiberglass vessels with multiple powerful engines that can reach deep water in a half hour, go straight to a favorite reef or rock pile using GPS navigation, and lock in position with sophisticated electronic systems that account for currents and wind. When there, anglers deploy the latest tackle, bring up bottomfish in an extremely efficient manner, and then head back to shore where they share tips and photos via social media.

To be clear, none of this is morally wrong, illegal, or otherwise. What it does mean, though, is that today's recreational snapper-grouper fishery in the South Atlantic is at levels of capitalization and participation never seen before. There are so many people out there, and so many hooks in the water, that even when red snapper are thrown back (or released carefully), the dead discards are enough to drive overfishing.

By now it should be clear that the South Atlantic Council and NOAA Fisheries are facing a difficult management situation with red snapper. Recent council meetings have had some tough discussions on the topic, with vigorous debate over which management approaches should be pursued and how to solve the problem. Area management is one potential approach; there may be others as well. I will not offer predictions as to how the Council and agency will resolve the matter, but I can say that the regional councils are typically very hesitant to adopt area closures and only do so when absolutely necessary. And for exactly this reason, H.R. 4587 is counterproductive: if and when the Council and NOAA Fisheries need this tool, it should be there ready for use.

3. Delay Is Not the Answer and May Make Things Worse

The premise of H.R. 4587 is that an upcoming scientific exercise, the South Atlantic Great Red Snapper Count, will provide a more favorable view of the status of red snapper and will allow for higher catch levels, thereby opening up a longer directed fishing season for the recreational sector and making the rebuilding and overfishing problems go away. By waiting, the bill suggests, we may be able to avoid taking any difficult actions.

This is not a good approach, unfortunately, for the red snapper stock or the broader snapper-grouper fishery.

As an initial matter, results from the Great Red Snapper Count will not be ready for a while. By way of comparison, the Gulf of Mexico's Great Red Snapper Count kicked off in 2017, according to the Mississippi-Alabama Sea Grant Consortium,[7] and scientists are still working to integrate its results into the Gulf red snapper stock assessment, which is expected to be released next year. Then managers will need time to review that assessment and decide on the appropriate management response. So even if the South Atlantic process is faster, H.R. 4587 still would mean waiting a significant amount of time.

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[6] National Marine Fisheries Service, Technical Memorandum NMFS-F/SPO-236: Fisheries Economics of the United States 2020, at 137 (Feb. 2023)

[7] Mississippi-Alabama Sea Grant Consortium, ArcGIS Story Map: Whatever Happened with the Great Red Snapper Count? (May 25, 2023), https://storymaps.arcgis.com/stories/d03212c07af94ac79a98c9c3a210270e.

And waiting means tolerating several more years of a status quo in which the vast majority of red snapper yield is wasted as dead discards, and which, as far as we can tell, is not even helping the stock rebuild its age structure. This is not good policy. Moreover, it could mean wasting our best chance to get the South Atlantic red snapper stock fully rebuilt. There is no guarantee that recent high recruitment levels will continue, and it would be a real failure to just delay and do nothing, while some of the strongest year classes in history get burned up as dead discards.

The next important thing to realize is that nobody yet knows what the results from the Great Red Snapper Count will show. In terms of rebuilding, and getting out of the current overfished status, there are a lot of scenarios in which the Great Red Snapper Count does not clearly address or solve this problem. As noted above, rebuilding South Atlantic red snapper means restoring the stock's age structure. The Great Red Snapper Count is expected to produce an absolute abundance estimate for red snapper, but it may not include region-wide age structure data. And an absolute abundance estimate alone does not dictate a conclusion that the stock is rebuilt; if abundance is much higher or lower than expected, this will raise questions about productivity and whether the current reference points need to be revised. Ultimately the stock's overfished or rebuilt status will be hammered out in the assessment process and will depend on a number of reworked parameters; it is not guaranteed to come out one way or the other.

And in terms of overfishing, the same holds true. Available yield is a function of not only current biomass but also productivity, and those same productivity parameters just mentioned will need to be re-worked during the stock assessment process before anyone knows what the potential future yield will be. Even if the Great Red Snapper Count ends up concluding there are a lot of red snapper hanging out in areas of uncharacterized substrate, as was the case in the Gulf, it does not necessarily follow that those fish mean more is available to the fishery. As the Mississippi-Alabama Sea Grant Consortium notes in its explainer about the Gulf study, dramatically increasing catch levels based on abundance in unfished areas creates a risk that "too many fish would be removed from th[e] commonly fished areas."[8]

Another view on what sustainable yield from a rebuilt red snapper stock may look like comes from the current stock assessment. Based on SEDAR 73, current catch levels are likely around, or even above, the eventual sustainable yield amounts for a fully rebuilt stock.[9] This would mean that even when red snapper is fully rebuilt, it is not clear how much more yield will be available than is already being taken from the population today.

For these reasons, waiting and hoping the Great Red Snapper Count will solve red snapper's rebuilding status and dramatically increase available yield is not a great approach. Yield is and will be finite; the Great Red Snapper Count will not change that fact. And given trends in recreational fishery participation and capitalization, a finite amount of yield, even if modestly increased from today's levels, will require some management in order to maximize landings, minimize dead discards, and meet other management goals. The Council and NOAA Fisheries are going to have to wrestle with this and come up with solutions, as unpopular as it may be.

There is also a final pragmatic reason why it is misguided to delay at this point: red snapper is not a lone stock in isolation, and there are likely to be more problems on the way. Even if the Great Red Snapper Count were to solve all the Council's problems with red snapper, several other snapper-grouper stocks are facing similar issues and will require the same underlying management tangle to be addressed. Survey indices are stagnating or declining for several popular target stocks like gag grouper, gray triggerfish, red porgy, and black sea bass. Some of these stocks do not appear to have the resilience of red snapper, and they are struggling under the current open-access, unconstrained recreational fishery. When they do hit the overfished threshold and require rebuilding, it is going to be a substantially worse situation for the Council to work with than red snapper, because rebuilding margins will be slim and there will be a lot less to go around. It is better to deal with these management problems today, under the more generous terms of red snapper, than to ignore them and wait for a worse situation to arrive.

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[8] *Id.*

[9] *See* SEDAR 73, Section II at 71 (Table 27, listing reference points, including current estimate of Maximum Sustainable Yield (MSY) as approximately 404,000 pounds of landed catch per year); *id*. at 64 (Table 22, listing estimated landings by year, with terminal three-year average exceeding the MSY estimate). Note also that the calculated MSY value contains a lower assumed dead discard component than currently is occurring, so while total catch levels at MSY are not explicitly stated, they are likely lower than current total catch.

4. H.R. 4587 Creates a Real Fairness Problem

An additional concern here is that this bill represents Congress intervening in ordinary fishery management because one particular sector faces the possibility of management actions it views as unfavorable. Other participants in the South Atlantic snapper-grouper fishery have been subject to increasingly strict management for decades now, and there was no arbitrary suspension of the rules—nor should there have been. Commercial fishermen currently are managed under numerical catch limits, with observers and logbooks, such that they are accountable for every pound of fish they catch. And that's a good thing, from both a conservation and a management perspective. There also are aspects of commercial management that fishermen struggle with, like extremely low trip limits that constrain their access to valuable species, a 2-for-1 permit requirement that lowers the value of their permits and continues to reduce the size of the commercial fishery past its intended goal, and others. Despite all of this, they play by the rules, they work with the Council and NOAA Fisheries, and they keep coming back to the table—which makes the kind of one-off exceptionalism presented by H.R. 4587 difficult to accept.

In closing, I would like to reiterate that H.R. 4587 is inconsistent with the Magnuson-Stevens Act's scientific process. The fishery in question needs management, and removing tools from the toolbox is counterproductive. Waiting for a future scientific study is the wrong approach, and the study in all likelihood is not going to solve the management issues facing this fishery. Managers should face the challenges now with red snapper, because those same challenges will keep coming up, and they will be harder to deal with in future scenarios involving other overfished species.

Mr. BENTZ. Thank you, Mr. Atkinson. The Chair now recognizes Mr. Graham for 5 minutes.

STATEMENT OF JACK GRAHAM, CAPTAIN, AFISHIANADO CHARTERS, NAGS HEAD, NORTH CAROLINA

Mr. GRAHAM. Hey, guys, thanks for having me. My name is Jack Graham. I run a recreational charter boat out of Oregon Inlet Fishing Center, fishing the Gulf Stream waters off the coast of North Carolina's Outer Banks. I am here on behalf of H.R. 4051.

I am one captain of a fleet of about 75 boats and one of the youngbloods in my fleet. I work along some of the most renowned and respected skippers on the planet, with over 500 years of cumulative experience. That is probably a conservative estimate, a lot of really good fishermen in my fleet. Most of us spend 125 to 200 days a year on the water, and I really appreciate the invitation to come give testimony about a phenomenon that has been occurring and exponentiating over the past 10 years.

That phenomenon is an astounding depredation of yellowfin and bigeye tuna by what we believe is one of the most significant biomasses of large sharks in existence on the planet. The testimony I am going to give here today is, by the numbers, conservative in nature, as I don't want to give the impression that I am telling a fish story. All the same, I think you will all find this testimony interesting and, to be quite honest, incredible.

To begin, I would like to congratulate the scientific community and legislators who took initiative in conservation efforts so many years ago. If what we are seeing on our coastlines isn't proof that conservation works, I don't know what is.

Just the other day, by my rudimentary calculations, there were boats fishing in 300 feet of water all the way out to 3,000 feet of water, and all had multiple encounters and depredation issues with large sharks feeding on a multitude of species of fish on the end

of their lines. I used my GPS and drew a square from the northernmost boats to the southernmost boats, and came up with a conservative area of approximately 300 square miles.

The species of sharks varied somewhat, depending on depth, but the most common encounters are with dusky greater hammerheads, silky spinner, and sandbar sharks. And interesting side note, a little bit of research I have done tells me that spinner sharks are coastal sharks. However, we routinely encounter them in over 1,000 feet of water, 35 to 40 miles off the coast.

I have traveled all over the world to fish and dive, and I have seen just about every square inch of Australia's Great Barrier Reef. And myself nor my colleagues have seen anything that comes close to what we are seeing in our home waters.

I mentioned the square mileage, and that was just one day, but I feel I need to stress this is a daily occurrence. From about the middle of April through September we take bookings 7 days a week, and will fish days, and days, and days in a row if weather permits.

For several years, I was trying to get in touch with folks in the scientific community. I had gone to a meeting to protest offshore drilling off our coast, and raised the question of concern for the effects said drilling and seismic testing would have on our marine mammal life. We sometimes catch tuna around the pilot whales, so I was concerned not only for the mammals themselves, but for the tunas my customers enjoy catching.

Anyway, a whale scientist from Duke University approached me to thank me for my line of questioning. I, in turn, asked him to point me to some folks in the scientific community who may be interested in what we were seeing off the coast. He did, and I made several calls, several e-mails, and I received a little bit of feedback, but was never able to garner the interest I felt like this area deserves.

I will put it this way: Shark Week has absolutely nothing on what we are seeing off the coast of North Carolina right now.

The reason I am telling you this story is because for years I took records of the depredation happening on a daily and monthly basis out of my marina. My method was fairly simple. Our marina offers a fish cleaning service. Each day they pick up each boat's fish and weigh them. The customer pays by the pound. By knowing how many tuna were caught that day, I was able to calculate the average size tuna brought to the docks each day. I would then talk to the other boats, ask them how many tuna they caught versus how many tuna were eaten by sharks. In the beginning, it was about half and half. So, if I hooked 20 tuna, I would get, on average, 10 to the boat. Some days we are worse. Very rarely were they better.

For months on end, our fish cleaning service was cleaning in the neighborhood of 10,000 pounds of tuna per day. Again, this is average. There were days where we cleaned as much as 15,000 to 18,000 pounds in one day. But if we used just a conservative estimate of 10,000 pounds of tuna per day, say factor in 5 days per month of weather days where the fleet didn't go fishing, that still adds up to about 250,000 pounds of tuna depredation in one month. And that is just my small marina with about 25 boats. There are about 75 boats in the fleet.

So, including charter boats from three other marinas, a fairly active recreational private sector, 250,000 pounds is more than likely much higher. And this is happening for months, and months, and months on end. Of course, now we can only get about 1 in 10 fish, not 50 percent.

In addition to the recreational industry, my community prided itself in having one of the most successful dayboat hooking lines sustainable fleets off the East Coast. Hook and line fishermen catching bigeye and yellowfin tuna that not only supported our local restaurants, but were shipped out to fish markets all over the country. Contrary to what you may have seen on TV, bigeye tuna is the most valuable tuna per pound in the United States, and our area was responsible for distributing tons and tons of sustainable hook-and-line caught bigeye tuna all over the country.

That domestically caught fish is now the thing of the past. Those boats have been sold or are being used for different reasons. I have not seen a commercial hook-and-line tuna boat offshore in over 5 years.

Thanks, guys. I am happy to answer any questions you have.

[The prepared statement of Mr. Graham follows:]

PREPARED STATEMENT OF JACK GRAHAM, CAPTAIN, AFISHIANADO CHARTERS ON H.R. 4051

My name is Jack Graham. I run a recreational charter boat out of the Oregon Fishing center, fishing the gulf stream waters off the coast of North Carolina's Outer Banks. I'm one captain in a fleet of about 75 boats, one of the "young bloods" in my fleet. I work alongside some of the most renowned and respected skippers on the planet with over 500 years of cumulative experience. Most of us spend 125–200 days per year on the water. I appreciate the invitation to come give testimony about a phenomenon that has been occurring, and exponentiating, over the past 10 years. That phenomenon is an astounding depredation of yellowfin and bigeye tuna by what we believe is one of the most significant biomasses of large sharks in existence on the planet. The testimony I am about to give here today is, by the numbers, conservative in nature, as I do not want to give the impression I am telling a "fish story." All the same, I think you all will find this testimony interesting, and to be quite honest, incredible.

To begin, I would sincerely like to congratulate the scientific community and legislators who took initiative in conservation efforts so many years ago. If what we are seeing off our coastlines isn't proof that conservation works, I don't know what is. Just the other day, by rudimentary calculations, there were boats fishing in 300 feet of water, all the way out to 3,000 feet of water, and all had multiple encounters, and depredation issues with large sharks feeding on a multitude of species of fish on the end of their lines. I used my GPS and drew a square from the northernmost boats to the southernmost boats and came up with an area of, and again conservatively, approximately 300 square miles. The species of shark varies somewhat depending on depth, but the most common encounters are with Dusky, greater hammerhead, silky, spinner and sandbar sharks. Interesting side note, research tells me spinner sharks are coastal sharks, however we routinely encounter them in over 1,000 feet of water 35–40 miles off the coast. I have traveled all over the world to fish and dive, I have seen just about every square inch of Australia's Great Barrier Reef, and I, nor my colleagues have seen anything that comes close to what we are seeing in our home waters.

I mentioned the square mileage, and that was just one day, but I feel I must stress this is a daily occurrence. From about the middle of April through September, we take bookings 7 days a week and will fish days and days in a row if weather permits. For several years I was trying to get in touch with folks in the scientific community. I had gone to a meeting to protest offshore drilling off our coast and raised a question of concern for the effect said drilling and seismic testing would have on marine mammal life. We sometimes catch tuna around the pilot whales so I was concerned not only for the mammals themselves, but for the tuna my customers enjoy catching. Anyway, a whale scientist from Duke university approached

me to thank me for my line of questioning. I in turn asked him to point me to some folks in the scientific community who may be interested in what we were seeing off the coast. He did. I made several calls, wrote several emails and did receive some feedback, but was never able to garner the interest I felt like this area deserves. I'll put it this way . . . shark week has absolutely nothing on what we are seeing off the coast of North Carolina right now. The reason I am telling you this story is because for years I took records of the depredation happening on a daily, and monthly basis out of my marina. My method was fairly simple. Our marina offers a fish cleaning service. Each day they pick up each boat's fish and weigh them. The customer pays by the pound. By knowing how many tuna were caught that day I was able to calculate the average size tuna brought to the docks each day. I would then talk to the other boats and ask them how many tuna they caught vs. how many were eaten by sharks. In the beginning it was about half and half. So if I hooked 20 tuna I would get, on an average day, 10 to the boat. Some days were worse, very rarely were they better. For months on end our fish cleaning service was cleaning in the neighborhood of 10,000 pounds of tuna per day. Again, this is an average, there were days they cleaned as much as 15–18,000 pounds. But if we use just a conservative estimate of 10,000 lbs of tuna per day, and factor in 5 days per month for weather days where the fleet did not go fishing, that still adds up to a staggering 250,000 pounds of tuna depredation IN ONE MONTH. This has now been going on for over 8 years. And these numbers just reflect my small marina of about 25 boats. So including charter boats from 3 other marinas, and a fairly active recreational private boat sector, that number of 250,000 pounds is more than likely much higher. Only one thing has changed over the years, it has gotten worse. Before a 50 percent average was justifiable, now it's about 1 fish in 10, and many days we do not get any.

In the beginning, economically speaking, depredation created a boom. We all thought it would be over soon, that they would move on and this was an anomaly. After all, so many captains with so many years experience had never seen anything like this in their lifetimes. The sharks ate the tuna and bit through our lines. We needed more fishing tackle, and the tackle shops were happy to oblige. We fished longer days and made longer runs, so we burned more fuel and paid for it at the pump. We bought new types of gear, electrical and hydraulic equipment to try and find a method that would get the fish to the boat faster than the shark could swim. I even bought shark deterrent magnets, and worked with a shark deterrent company to try and develop a product that would keep them away. But over the last few years a sort of gloom has settled in over our fleet. Used to be, during good fishing times, small trailer boats would come from all up and down the east coast to experience our tuna fishery. Filling hotels, restaurants, buying tackle from the shops, and booking vacation rental homes, some for entire weeks just to go fishing.

In addition to the recreational industry, my community prided itself in having one of the most successful day boat hook and line sustainable tuna fleets on the east coast. Hook and line fisherman catching bigeye and yellowfin tuna that not only supported our local restaurants, but were shipped out to fish markets all over the country. Contrary to what you may have seen on TV, bigeye tuna is the most valuable tuna per pound in the United States, and our area was responsible for distributing tons and tons of sustainable hook and line caught bigeye tuna all over the country. That domestically caught fish is now a thing of the past. Those boats have been sold off or are being used for other things. I have not seen a commercial hook and line boat offshore in over 5 years.

As for myself and others like me, my business is beginning to feel the effects of the depredation. Our fleet takes all kinds of folks from all over the country out for a day on the water, most coming in hopes of experiencing some of our world class tuna fishing. They arrive armed with canning supplies and vacuum packing machines, in hopes of taking fresh fish home to somewhere it isn't readily available. It is not a cheap trip after a long drive or flight, accommodation and charter fee is paid. They are still seeing what would be world class fishing, lots of action, lots of strikes, but very little reward for their efforts. As a captain I can no longer in good conscience tell my clients we can look forward to a fun day on the water. I feel that even if we are fortunate enough to hook several tuna, they stand a very slim chance at being harvested and processed on board my vessel. Across the board, charters are down. And with several factors already working against us in the industry, many of us, especially us young captains just starting out, fear the depredation of the fish that put our fleet on the map, could be our undoing. We have tried just about everything to outsmart the sharks, tried to find areas where maybe there aren't as many, but it hasn't yet been done with any success.

This testimony was not meant to be completely gloomy. There is a success story here and it should be celebrated. If nothing else, what we are seeing off our coast

is that conservation truly does work. The ocean is capable of healing in ways many could never imagine. In my opinion it is a blueprint for aquatic ecosystems all over the world. But as we attempt to create a balanced ecosystem we can also create an imbalance, fishermen are the greatest tools available to the scientific community. We are literally performing an experiment every day we put our lines in the water. The ecosystems that exist off our coastlines here in the United States are some of the most fascinating anywhere on the planet. But I do believe we must adapt, and we must use the valuable information we fishermen retain first hand each and every day to help create a more balanced and productive ecosystem for future generations to enjoy.

Mr. BENTZ. Thank you, Mr. Graham. The Chair now recognizes Ms. McCawley for 5 minutes.

STATEMENT OF JESSICA MCCAWLEY, DIRECTOR, DIVISION OF MARINE FISHERIES MANAGEMENT, FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION, TALLAHASSEE, FLORIDA

Ms. MCCAWLEY. Chairman Bentz and members of the Committee, thank you for the invitation to testify today to represent Florida as the fishing capital of the world.

On behalf of FWC, I want to thank Congressman Webster and Congresswoman Luna for their service on this Committee, and all their efforts to conserve Florida's and the nation's natural resources.

I will focus my remarks on the issue of dead discards and how they impact the Atlantic red snapper fishery, why we and others oppose NOAA's efforts to implement area closures for the entire 55 fish snapper-grouper fishery, and Congressman Rutherford's Red Snapper Act.

Discard mortality is a pervasive issue that impacts the stock assessments of Atlantic red snapper, ultimately driving fishery management decisions. Discard mortality occurs when fish are caught alive, but then die after release. According to the recent Atlantic Red Snapper Stock Assessment, the mortality rate of fish that are discarded is estimated to range between 29 and 31 percent, driving the over-fishing status.

However, discard data are self-reported by anglers, and are unvalidated making the magnitude of the discards difficult to estimate precisely. No age or length information is available to characterize dead discards, which is a problem because that information is critical for stock assessment models to function reliably. NOAA's own scientists in the South Atlantic Council's SSC have indicated that these discard estimates are highly uncertain, and should not be used for management.

Despite these dead discards, the Atlantic red snapper stock is rebounding at an astonishing pace, and has reached record-high abundance levels.

To reduce discards, NOAA, the South Atlantic Council, and FWC have been implementing management actions in recent years. The council implemented rules requiring descending devices be on board vessels fishing for reef fish, and a single hook requirement for all recreational anglers, has expanded education and outreach, and is working on a management strategy evaluation for the entire snapper-grouper fishery.

Similarly, FWC implemented reef fish regulations requiring anglers to possess a descending device or venting tool in state waters, and we are working with fishing groups to improve discard education.

In addition, the congressionally-funded Atlantic Great Red Snapper Count is underway, and when completed will provide essential data that was previously unavailable to NOAA and assessment scientists.

Finally, NOAA has said it would issue exempted fishing permits to improve red snapper management and, if selected, FWC would conduct a pilot program aimed at improving recreational red snapper data collection and test various management strategies.

Despite all these management efforts and the lack of complete, scientifically accurate information about red snapper discards, NOAA continues to advocate for an area closure for the entire 55 fish complex to end over-fishing of red snapper immediately. Florida and other South Atlantic states and an overwhelming majority of the fishing community have opposed any area or time closures for red snapper because the scientific evidence does not support a closure.

Closures of the entire 55-fish complex based on an assessment of one stock are not the answer. A closure would have a devastating economic impact from Jacksonville to Key West. NOAA estimates the value of recreational fishing of Florida's reef fish contributes an output of nearly $384 million, and supports more than 3,700 jobs. Closing access to reef fish off Florida's Atlantic coast would effectively eliminate this financial contribution.

FWC thanks Florida Congressman Rutherford for introducing H.R. 4587. This bill would prevent any closures until the Atlantic Red Snapper Count results could be incorporated into the next assessment. This is a common-sense solution, a reasonable position, and gives us a chance to pump the brakes on any draconian measures until the best scientific data is available for use in management decisions.

It is important to note that the U.S. Court of Appeals ruled recently that NOAA's decision to alter the management of a species for the benefit of another using worst-case-scenario science was not legal.

As trustees of the resource, we all must do everything we can to help our commercial and recreational fishermen while conserving our fisheries' resources for future generations.

I will conclude my remarks by thanking the Committee again for this opportunity.

[The prepared statement of Ms. McCawley follows:]

PREPARED STATEMENT OF JESSICA MCCAWLEY, DIRECTOR, DIVISION OF MARINE FISHERIES MANAGEMENT, FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION

ON H.R. 4587 AND H.R. 4051

My name is Jessica McCawley, and I am the Director of the Division of Marine Fisheries Management at the Florida Fish and Wildlife Conservation Commission (FWC). In that capacity, I serve as a voting member on the South Atlantic Fishery Management Council, including chair of the Snapper Grouper Committee. From 2018 to 2020, I served as chair of the South Atlantic Fishery Management Council.

With more than 7,700 lakes, 12,000 miles of rivers, streams and canals, and 8,426 miles of tidal shoreline, Florida is a paradise for anglers, boaters, and outdoors

enthusiasts. Florida waters are home to thousands of species of fish and wildlife. From red snapper to Key's lobster, Florida supports thriving fisheries. Florida also is home to warm weather, sunshine and friendly people who love ensuring others have great fishing experiences. And at the end of the day, we also have wonderful restaurants that are willing to cook the bounty harvested from a beautiful day spent on Florida's waters.

A closer look at the numbers reveals an expansive and engaged fishing community in Florida that is unrivaled anywhere in the world:

- 4.3 million Florida anglers,[1]
- $13.9 billion economic output from recreational fishing,[1]
- More than 120,380 jobs supported by recreational fishing,[1]
- $197 million in commercial food fish dockside sales,[2]
- More than $6.1 billion in value added economic impact by the commercial seafood industry,[3]
- 76,685 jobs supported by the commercial seafood industry,[3] and
- Home to 4,629 total game fish records, which makes Florida the world leader.[4]

For these reasons, Florida is the Fishing Capital of the World. While I am always happy to talk about the many opportunities for fishing in Florida, I am here today to discuss South Atlantic red snapper and H.R. 4587, the "Red Snapper Act," and briefly comment on H.R. 4051, the "SHARKED Act."

Before I get to the discussion of H.R. 4587, some background information is needed.

First, while the subject matter today is South Atlantic red snapper, it is important to recognize that red snapper is categorized as part of the snapper grouper fishery in the South Atlantic. The snapper grouper fishery includes 55 bottom- and reef-dwelling fish species, including some species that are neither snappers nor groupers (e.g., triggerfish and several jack species). Red snapper is an iconic fish, and it receives a lot of attention, but red snapper comprises only one species within the complex. However, other species, such as yellowtail snapper and black grouper, within the complex are popular within the fishing community.

Second, multiple agencies are involved in management of red snapper in the South Atlantic, and all are bound by the overall harvest allowance established by the Council through the federal Fishery Management Plan. FWC manages red snapper harvest in Florida's state waters, which is the shoreline out to three (3) nautical miles. The South Atlantic Fishery Management Council (Council) manages commercial and recreational red snapper harvest in South Atlantic federal waters (3 nautical miles out to 200 nautical miles off North Carolina, South Carolina, Georgia, and East Florida). NOAA Fisheries is the federal agency that is responsible for implementing regulations approved by the Council, for setting allowable catch levels, and monitoring catch and effort throughout the year. In addition, NOAA Fisheries is responsible for setting the South Atlantic recreational and commercial red snapper seasons annually based on available quota, which was set by Snapper Grouper Amendment 43 in 2019.

Third, a vast majority of the recreational landings of Atlantic red snapper comes from Florida. As of June 2023, the total South Atlantic red snapper quota (42,510 fish) is allocated between the commercial sector (28.07 percent) and recreational sector (71.93 percent). That allocation results in the current recreational quota of 29,656 fish and the commercial quota of 124,815 pounds whole weight. Quotas set in Amendment 43 are based on landings, and not discards, that were observed from the 2014 limited red snapper season. This year, this quota translated into a federal recreational fishing season of two (2) days: July 14 and 15, 2023. However, in Florida state waters, FWC allows for year-round harvest of red snapper and the recreational regulations include 1 fish per person with a 20-inch minimum size limit.

Fourth, South Atlantic red snapper catch and effort are monitored through the federal Marine Recreational Information Program (MRIP). In 2020, FWC expanded our specialized survey called the State Reef Fish Survey (SRFS) as a supplement

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[1] American Sportfishing Association and Southwick Associates, 2021. Sportfishing in America: A Reliable Economic Force.

[2] Fish and Wildlife Research Institute Commercial Landings Data, 2020.

[3] National Oceanic and Atmospheric Administration, 2020. Fisheries Economics of the United States 2020. NOAA Technical Memorandum NMFS-F/SPO-236.

[4] International Game Fish Association, 2021.

to the federal MRIP survey, with the goal of improving data collection for private recreational fishers harvesting certain reef fish, including red snapper, off Florida's Atlantic Coast. SRFS provides a focus of data collection on effort, catch, and discards of recreational anglers who harvest certain reef fish from private vessels. SRFS provides more accurate and timely estimates of recreational harvest (monthly reporting) compared to MRIP (bimonthly reporting), largely because it is a specialized survey designed to accommodate how the reef fish fishery operates.

Due to the success of SRFS, NOAA Fisheries certified the survey and other Gulf state surveys for use in management of red snapper in the Gulf of Mexico. This has led to the delegation of authority from NOAA Fisheries to the State of Florida and other Gulf states to manage Gulf red snapper in state and federal waters. Ultimately, the use of SRFS for managing Gulf red snapper over the federal MRIP survey has led to expanded seasons and fishing opportunities for Florida stakeholders. The current Gulf red snapper season is expected to last 70 days in Gulf state and federal waters, which is the longest Florida Gulf red snapper season since the State took over management. It is our goal that SRFS can be used in the Atlantic to improve red snapper management.

In addition, every year during the federal South Atlantic red snapper season, FWC staff significantly expands efforts to conduct dockside interviews, obtain biological samples, and better understand fishing effort through vessel counts at key inlets. These efforts greatly contribute to better characterizing the South Atlantic red snapper recreational fishery and provide essential information used in the stock assessment process.

Fifth, discard mortality is a pervasive issue that impacts stock assessments of South Atlantic red snapper. This is important because discard data have become a key decision point in many fisheries management deliberations. Discard mortality occurs when fish are caught alive but then die after release. Discards occur commonly when an angler is fishing for one species and catching another that cannot be retained. In the case of Atlantic red snapper, dead discarded fish is thought to comprise a significant percentage of the total (discarded fish plus landed fish) removals. The mortality rate of fish that are discarded is estimated to range between 28.75 percent to 31.07 percent[5] for Atlantic red snapper. (For example, a discard mortality rate of 20 percent implies that, of every five fish released, one fish would die.) No age or length information is available to characterize dead discards, which is problematic because that information is critical for stock assessment models to function reliably. Since this data is self-reported by commercial and recreational fishermen, and discarded fish are not available for length or age sampling, the magnitude of the number of discards is poorly understood, highly uncertain, unvalidated, and difficult to estimate precisely.

The lack of accurate and validated data pertaining to the rate and magnitude of discards in the Atlantic red snapper fishery leads to a highly uncertain stock assessment. Three sources of information are critical to accurate stock assessments: the amount of fish removed by fishing, the age of those fish, and independent surveys of abundance. For a stock, such as red snapper, where it is presumed that upwards of 90 percent of the fish removed by fishing are the result of dead discards, much of the assessment uncertainty is related to the combination of highly uncertain discard estimates and the inability to determine the age of those fish. The third information source, abundance surveys, is relatively more reliable although information is lacking on early life stages. This may contribute to the assessment's inability to establish a relationship between spawning fish and their offspring. When such relationships cannot be estimated, proxy values must be used, but there is no way of knowing if such proxies are truly representative of a given stock. In the case of red snapper, the proxy-based targets for spawning stock biomass suggest the stock is not rebuilt, yet the spawning fish in the population are producing higher than expected numbers of offspring. The proxy-based target for fishing mortality indicates overfishing is occurring, yet the stock has steadily increased in biomass and abundance, including the important abundance of older, mature fish. Both trap and video surveys of abundance show a steep increase since 2011.

Fisheries managers and scientists who have reviewed the stock assessment agree that the overfishing status of Atlantic red snapper is driven primarily by high recreational discards. NOAA's own scientists and the South Atlantic Fishery Management Council's Science and Statistical Committee have indicated that these estimates of discarded fish are highly uncertain and should not be used for management, and this is why Amendment 43 established catch levels based on landed fish. Despite these projected high numbers of dead discards, red snapper abundance and

[5] SEDAR 73, 2021. SEDAR 73 South Atlantic Red Snapper Stock Assessment Report. SEDAR, North Charleston, SC. 194 pp.

biomass are at record high levels and Atlantic red snapper has experienced strong recruitment over the last six years.

To reduce discards and help rebuild the red snapper fishery, all parties involved in red snapper management have taken management actions.

South Atlantic Fishery Management Council and Red Snapper

First, the South Atlantic Fishery Management Council approved Regulatory Amendment 35, which will help reduce dead discards for all species in the snapper grouper fishery by implementing a single hook requirement for all recreational anglers (private and for-hire) fishing from a vessel for snapper grouper species. The goal of this action is to help slow the removal rate and reduce catch and discards across the entire snapper grouper fishery. Additionally, the Council decided to expand its outreach and education program to promote best fishing practices to help reduce discard mortality for snapper grouper species. This amendment is pending approval by the U.S. Secretary of Commerce. Fishery managers from all South Atlantic states (Florida, Georgia, South Carolina, and North Carolina) supported these efforts.

Second, in 2019, the Council approved Snapper Grouper Regulatory Amendment 29 that requires anglers fishing in South Atlantic federal waters to have a descending device rigged and ready when fishing for snapper grouper species. The purpose of this rule was to help increase the survival of released reef fish. A descending device is an instrument capable of releasing a fish at a depth sufficient for the fish to be able to recover from the effects of barotrauma. Barotrauma is a pressure-related injury and is one of the top factors that can contribute to the increased levels of discard mortality of reef fish. The quick change in pressure can cause gas in the swim bladder to expand and cause internal organ damage. The frequency and severity of barotrauma can vary by species, fishing technique, and water temperature. Quick and proper use of barotrauma mitigation tools like descending devices and venting tools can help reef fish recover from the effects of barotrauma and return to depth; ultimately, reducing discard mortality for reef fish.

Third, the Council has started a management strategy evaluation (MSE), scheduled to be completed in 2024, for the snapper grouper fishery to find possible management options to reduce the number of released fish. The MSE is a conceptual model that will evaluate multiple strategies to determine which management options are best suited to benefit the collective snapper grouper fishery and accomplish the goals of the Council (e.g., decreasing discards, increasing harvest).

Descending Device and Venting Tool Requirement in Florida

Earlier this year, FWC implemented a requirement for private recreational anglers fishing for reef fish off a private vessel in state waters to possess a descending device or venting tool. Additionally, this regulation requires the appropriate use of such a tool/device only if releasing a reef fish that is exhibiting symptoms of barotrauma. Symptoms of barotrauma include protruding stomach, bloated belly, distended intestines, bubbling scales, and bulging eyes.

Despite the federal regulations for descending devices listed above, many fishers remain unaware of federal gear requirements and lack confidence in properly using descending devices and venting tools. Therefore, outreach and education are critical for generating fisher buy-in, proper use of barotrauma mitigation tools and increased regulatory compliance. FWC is recognized as a leader in the development and promotion of educational programming on best fishing practices and empowering the public to help conserve fisheries for the future. FWC staff has engaged in a large-scale outreach and education program to highlight the importance of barotrauma mitigation tools to the health of Florida's reef fish stocks. FWC staff facilitate the Descending Device Outreach Coordination Team that is comprised of partners across the southeastern United States, including South Atlantic Fishery Management Council staff, Return 'Em Right, The Nature Conservancy, Gulf States Marine Fisheries Commission, and other state fish and wildlife agencies. The purpose of the team is to share outreach strategies, coordinate messaging, and streamline efforts across the region to promote best fishing practices to help increase survival of released reef fish through use of barotrauma mitigation tools.

Next Steps

South Atlantic Red Snapper Research Program (aka, the South Atlantic Great Red Snapper Count)

To have a better understanding of the number of red snapper in the South Atlantic, Congress has funded much-needed independent research in the South Atlantic. Modeled after the successful Gulf of Mexico Great Red Snapper Count, this

South Atlantic Red Snapper Research Program, aka, the South Atlantic Great Red Snapper Count, is near completion and is tasked with estimating the population size, distribution, and density of South Atlantic Red Snapper. Research began in the fall of 2020 and is expected to be finished by fall of 2025. It is expected that the results from this comprehensive, independent study will provide a better understanding of the red snapper population, be incorporated into the upcoming stock assessment, and ultimately improve management decisions.

FWC's Atlantic Red Snapper Research

As a leader in fisheries research and management, FWC continues to support innovative recreational data collection along the South Atlantic. First, FWC is an active participant in the South Atlantic Red Snapper Research Program described above. Secondly, in addition to expanding SRFS statewide, FWC is in the process of expanding two ongoing projects to increase data collection on red snapper and other snapper grouper discards. FWC will be conducting year-round monitoring to help validate recreational fishing survey estimates for private vessels as well as expanding observer coverage in the charter and headboat fishery in northeast Florida to identify hotspots of red snapper discards. These expanded projects are expected to start in January 2024.

Lastly, FWC's Fishery Dependent Monitoring Program has been conducting fishery-independent hook-and-line sampling of red snapper off northeast Florida for the last decade, and funding has been secured to continue this critical long-term sampling program for the next several years. This is a cooperative research program with the fishing industry, including commercial and for-hire participants, and this collaborative effort has provided critical information to help document the rebuilding of the red snapper stock's age composition.

Exempted Fishing Permit

Under certain circumstances (e.g., limited testing, data collection, etc.), NOAA Fisheries may authorize Exempted Fishing Permits (EFP). During 2018 and 2019, FWC tested state management of Gulf red snapper through an EFP that eventually led to the delegation of private recreational red snapper management in federal waters to each of the Gulf states. NOAA Fisheries has indicated that they will release a "Request for Proposals" and a funding opportunity for an EFP to address innovative management strategies that can help address discards in the red snapper fishery in the South Atlantic. For the last several months, FWC staff have been coordinating with fishery managers, scientists, and stakeholders to develop strategies to obtain better recreational data on fishing effort and discards to improve management, modify angler behavior to reduce discard mortality, and improve harvest opportunities. FWC plans to submit a proposal, and if chosen, the EFP would be an opportunity for FWC to conduct a pilot program to obtain better data for management. Any EFP that NOAA Fisheries ultimately approves would likely go in effect for the 2024 fishing season.

State Data Collection

FWC launched the Gulf Reef Fish Survey in 2015, which ultimately expanded to the State Reef Fish Survey in 2020. The key to SRFS's success was the establishment of a new requirement for anglers and spear fishers that intend to harvest reef fish from a private boat to possess the State Reef Fish Angler designation. This designation provides the State of Florida with a directory of participants in the reef fish fishery statewide so that a special survey may be administered. As of June 2023, more than 740,000 individuals possess a valid State Reef Fish Angler designation in Florida.

SRFS consists of two complementary survey components: (1) a mail survey of anglers with the State Reef Fish Angler designation, and (2) dockside interviews with anglers after they return from fishing. The mail survey collects information on recreational fishing trips taken by reef fish anglers over the most recent month. During dockside surveys, anglers are interviewed in person to collect detailed information on the numbers and types of reef fishes caught and released during their trip that day. Combined, mail and dockside survey components are used to estimate the total number of recreational fishing trips taken each month and the total numbers of reef fishes harvested and released by anglers fishing from private boats.

Ultimately, one of the main goals of SRFS is for its use within the stock assessment process, which will use more precise and timely data for management. In the Gulf of Mexico, this has already occurred for the recent Gulf gag grouper assessment and a transition plan is currently being implemented for upcoming Gulf red snapper assessment. As SRFS continues to improve data collection of reef fish in

the South Atlantic, FWC will continue to advocate for its use in management and future stock assessments of South Atlantic red snapper and other reef fish species.

H.R. 4587, the "Red Snapper Act"

Introduced by U.S. Rep. John Rutherford (R-FL), the "Red Snapper Act" would prevent NOAA from promulgating a rule that would force an area closure in the South Atlantic for all 55 species in the snapper grouper fishery until the results from the current South Atlantic Great Red Snapper Count could be incorporated into the next stock assessment. FWC supports H.R. 4587 because waiting for independent data to be collected and incorporated into a stock assessment is a reasonable and common-sense action.

Any kind of closure would have huge economic implications on the South Atlantic. During work on Amendment 35, NOAA Fisheries provided analyses and recommended a potential area/time closure from the Florida-Georgia line to Cape Canaveral, where the "red snapper discard hotspot" occurs. As the Florida fisheries management representative on the Council, FWC vehemently opposed any management action that would disproportionately impact Florida stakeholders. In addition, our counterparts in Georgia, South Carolina, and North Carolina opposed (and to this day, continue to oppose) any closure. One of the main reasons FWC, the other South Atlantic States, and the fishing community have opposed such time/area closures off Florida is due to the poor recreational discard data that NOAA Fisheries is using to drive their analyses and subsequent recommendations. Recreational discard data are self-reported and unvalidated. The Council's own scientific advisors have stated that discard data should not be used for management purposes. In addition, NOAA Fisheries, in the past, has even cautioned the South Atlantic Fishery Management Council on using estimates of discards in their management of red snapper. However, recently, NOAA Fisheries has pushed to use this self-reported, unvalidated discard data to drive management decisions in its efforts to close large areas of the South Atlantic to, not just for red snapper, but for the entire 55-species in the snapper grouper fishery. FWC has vehemently opposed these draconian measures and has written letters to the Council and the United States Secretary of Commerce about these potentially damaging management measures.

Florida is known as the "Fishing and Boating Capital of the World", and any hastily imposed and incompletely evaluated area/time closures would significantly impact Florida recreational fishers, our for-hire industry, communities, and economies. NOAA estimates the value of recreational fishing of Florida's reef fishes contributes an output of nearly $384 million and supports over 3,700 jobs.[6] Closing access for all 55 snapper grouper species would effectively eliminate this financial contribution and job production to Florida's and the nation's economy. Closing access to an entire complex to solve the problems of one is irresponsible and would devastate local communities and economies.

Additionally, all the for-hire industries, bait shops, fuel stations, restaurants, hotels, and processors up and down Florida's east coast would be hurt economically by a closure. Any sort of potential closure could result in potential damage to the credibility of the federal fishery management process. Public trust is an essential part of being able to effectively manage natural resources. FWC understands that difficult decisions sometimes need to be made. However, these decisions should always be based on accurate and precise scientific data that comprehensively consider the biological, ecological, social, and economic effects. Results from the South Atlantic Great Red Snapper Count will provide essential data, previously unavailable to NOAA Fisheries and stock assessment scientists, to better characterize red snapper abundance in the South Atlantic. For the sake of responsible management and public trust in the management process, it is imperative that results from the South Atlantic Great Red Snapper Count are included in the upcoming red snapper stock assessment prior to considering area closures driven by poor discard data. Distrust can turn into poorer data being collected, ultimately putting the management in worse shape.

The last time NOAA Fisheries attempted to use faulty data to support a closure resulted in a court loss. In June 2023, the United States Court of Appeals for the District of Columbia Circuit ruled against NOAA Fisheries and its use of "worse-case scenario" to justify promulgating regulations intended to protect the North Atlantic Right Whale regulations at the expense of the lobster industry. The lobster industry sued NOAA Fisheries because it believed they had improperly used worst-case scenarios in the development of models that determine risk to right whales. In

[6] NOAA Coral Conservation Program, 2021. Economic Impact Analysis of Recreational Fishing on Florida Reefs. NOAA Technical Memorandum CRCP 41.

announcing its decision, the court said NOAA Fisheries reliance on worst-case scenario assumptions was arbitrary and capricious.

While the fish in question is different—red snapper and lobster—the overarching issue is the same. In the case of South Atlantic red snapper, the fundamental question is: Is NOAA's recommendation, and desire, to close the fishery relying on "worst-case scenario" assumptions? Florida, our fellow south Atlantic states, and the fishermen believe the answer is "Yes!"

Conclusion

FWC has opposed any area or time closures to red snapper and the entire snapper grouper fishery because the scientific evidence does not support a closure. There is no denying that we need sustainable fisheries, but continued access to these resources is also of paramount importance. People are a part of the fishery, and the fishery is part of the people. Every day we hear from fishermen stating that red snapper abundance is higher than they can remember. Building and maintaining public trust is absolutely essential to the success of the federal management process and necessary to continue to conserve our fisheries for the long-term. We need to ensure that all new research (e.g., South Atlantic Red Snapper Count, FWC expanded surveys) and data streams are included in the upcoming red snapper research track assessment so we can accurately characterize the status of the Atlantic red snapper fishery and provide more effective management strategies. Spatial or temporal closures of the entire 55 stock snapper grouper fishery based on an assessment of one stock are not the answer, and complex problems need thoughtful solutions before taking drastic action. As we have seen with previous management decisions, once a fishery is closed, it is very difficult to reopen. We need to understand what the Council's MSE might suggest about how to manage both red snapper and the entire snapper grouper fishery. FWC would like to test ways to change angler behavior, reduce discards, and improve harvest opportunities through an EFP in the red snapper hot spot areas off of Florida, which could provide valuable insight for the Council and NOAA Fisheries. As trustees of the resource, we all must do everything we can to help our commercial and recreational fishermen while conserving our fisheries resources for future generations.

Finally, FWC is pleased to support H.R. 4051, the "Supporting the Health of Aquatic systems through Research Knowledge and Enhanced Dialogue Act," or the "SHARKED" Act, which U.S. Rep. Wittman (R-VA) introduced. Florida Congressman Soto is a co-sponsor of the legislation, and we thank both congressmen for addressing this issue. We have heard about shark depredation for many years—from fishermen in the Keys whose prized snapper or grouper catch was eaten by a shark, from fishermen throughout the Gulf of Mexico during a Gulf of Mexico Regional Fishery Management Council discussion on the subject, and from countless fishermen from Pensacola to Jacksonville. We have heard stories from fishermen about sharks associating the sound of a motor stopping with an easy meal. Even before a fishing line is in the water, numerous sharks surround the boat ready to steal any fish that happens to get hooked. Shark depredation is a serious issue. Some recreational anglers spend a lot of money for a day on the water and are disappointed when half of a fish is on the other end of their line. In fact, according to a survey conducted by Casselberry et al.,[7] 77 percent of respondents had experienced depredation in nearshore and pelagic fisheries in the last five years, with depredation more commonly reported in the southeastern United States. FWC supports appointing a task force of serious scientists who want to educate people about the problem and believe the task force is a step forward to finding workable solutions.

Mr. BENTZ. Thank you, and I thank the witnesses for their testimony, and I will now recognize Members for 5 minutes each for questions.

Mr. Wittman, you are recognized for 5 minutes.

Mr. WITTMAN. Thank you, Mr. Chairman. I would like to thank our witnesses today.

Mr. Graham, thank you. I know that it cost you money to come up here, because these are days that you would otherwise be out

[7] Grace A. Casselberry, Ezra M. Markowitz, Kelly Alves, et al., 2022. When fishing bites: Understanding angler responses to shark depredation, Fisheries Research, Volume 246.

on the water, fishing. Let me ask a couple of different things. I think you really illustrate the picture perfectly for what it means for our recreational fisheries that rely on clients to charter their boats to go out and fish. And as you said, the middle Atlantic, as well as other places like Florida and others, have an incredibly robust recreational fishery as it relates to the charter business.

Some folks have said, well, this is just sharks being sharks. Can you give me your perspective, and explain how this is not just sharks being sharks, and how this issue in your mind has changed through the years, and where things are today?

You have spoken to me about a number of things that you have tried to try to overcome this shark depredation, different technologies, different practices, and what those are, if they have been successful and you being able to mitigate how these sharks are aggressively working to take every bit of the tuna that you catch?

Mr. GRAHAM. Yes, we have electric reels. There is a $10,000 hydraulic winch we call a tuna brute and it is supposed to get the tuna faster than the shark. None of it has worked.

When I first started out, we sat on the back of the boat when we hooked a bunch of tuna, and we made fun of the guy who was getting his butt kicked by that big, strong fish. It is no fun anymore. Like I said, 1 in 10 tunas maybe you will get to the boat.

And, yes, each year gets progressively worse, and I think the sharks are definitely learning. Just like you see the tarpon in the marina in Key West, when the people are feeding them by hand.

I mean, obviously, when boats are showing up, but we are seeing the sharks with the tuna. We are having predation issues out in 6,000 feet of water, where no boats have been in a week. I mean, I will run out 50, 60 miles offshore to try to find tuna, they are more normally on the continental shelf, but I will go try to find them somewhere else. And when I finally do find them, when I burn the extra fuel and spend the extra money, they still get eaten.

So, it has really become just an unbelievable biomass of inescapable biomass.

Mr. WITTMAN. I want to ask you, too, you heard me ask a question earlier of the witness from the National Marine Fisheries Service about shark stock assessments, and she didn't have any idea about what the stock assessment showed in the past, or when ones were going to be going forward. It is pretty amazing, since Magnuson-Stevens requires the Agency to do those things. So, maybe she ought to read Magnuson-Stevens.

But give me your perspective. I know that you know a lot more about it than our witness from National Marine Fisheries Service.

Mr. GRAHAM. Well, I was at a meeting with the head of HMS from NOAA a couple nights ago with a couple of the actual commercial fishermen who do the stock assessments, or have done them in the past. There is no money in it for them anymore.

So, the problem is these are commercial fishermen who just can't afford to go fishing every day for free, so they can't make any money off the sharks that they are studying. So, there is no one volunteering to do these studies anymore.

And I think you asked something about the mortality rate of young. I just did a bit of research, and the scientists that I talked to said the mortality rate for sharks that give live birth to their

young is generally accepted as much lower as fish eggs and whatnot, because, I mean, they literally come out of the shark swimming and ready to eat my tuna.

[Laughter.]

Mr. WITTMAN. Well, Mr. Graham, thank you.

Ms. McCawley, I want to ask you, NOAA claims that they are already working on this. If they are working on this, it doesn't seem like they are in any way, shape, or form successful in this. In fact, it seems like it is getting exponentially worse as we hear the testimony from Mr. Graham.

Do you think that there is enough already being done to figure out what is really at the root of this, and why things are so far out of balance now, and what NOAA is not doing in relationship to making sure that species are sustainable?

And it kind of goes back to some testimony we heard earlier about red snapper. I mean, they are looking at mortality based upon releases. This is mortality on tuna populations based on, essentially, impact from sharks. Again, this all goes to NOAA's requirement to manage the species.

Give us your thoughts about what NOAA is doing in relation to managing shark populations.

Ms. MCCAWLEY. Yes, thank you for that question. We support the shark legislation, and we think that depredation is a serious problem, and we think that the task force is really a step forward to finding a workable solution. NOAA Fisheries has worked on this, but I think more needs to be done, and I think that this task force is a great solution.

Mr. WITTMAN. Thank you, Mr. Chairman. I yield back.

Mr. BENTZ. Thank you. The Chair recognizes Mrs. Radewagen for 5 minutes.

Mrs. RADEWAGEN. Thank you, Mr. Chairman. Talofa Lava. Good morning, and thank you all for testifying today. My questions will focus on my bill that I introduced with my good friend, Congressman Case, on the South Pacific Tuna Treaty implementation language. This implementation language is vital for the success of the American fishing fleet in the South Pacific.

I would like to submit for the record a letter from four of American Samoa's tuna boat owners in support of this legislation.

Mr. BENTZ. Without objection.

[The information follows:]

July 27, 2023

Hon. Cliff Bentz, Chairman
Hon. Jared Huffman, Ranking Member
Subcommittee on Water, Wildlife and Fisheries
Committee on Natural Resources
1324 Longworth House Office Building
Washington, DC 20515

Dear Chairman Bentz and Ranking Member Huffman:

We are writing to express our strong support for H.R. 1792, legislation introduced by Representatives Radewagen and Case that would amend the South Pacific Tuna Treaty Act of 1988. This legislation is critical to the survival of the U.S. distant water tuna purse seine fleet, so we ask that your Subcommittee expeditiously approve the bill and recommend its' passage to the full Natural Resources Committee. Since we have found no opposition to the Treaty or the implementing

legislation, we are hopeful H.R. 1792 can be approved by the House and sent to the Senate this legislative session.

By way of background, our families have been part of the U.S. South Pacific tuna fleet for many generations. Our four independent purse seine fishing vessels are homeported in Pago Pago, where we supply fish to American Samoa and support many of the local business by purchasing fuel, supplies and other goods. We are also members of the American Tunaboat Association (ATA) who also strongly support the legislation. Our vessels fish in the US EEZ, the high seas and in the EEZ's of Pacific Islands party to the Treaty. Because we fish under a Treaty license issued pursuant to the South Pacific Tuna Treaty, we are able to access and fish in the EEZ's of other Pacific Island nations. Since our vessels were fishing under a Treaty license prior to November 3, 1995, our vessels are also "grandfathered" under the South Pacific Tuna Act Treaty Amendments of 1995 (included in the Fisheries Act of 1995), meaning that our vessels are eligible to fish in all of the Treaty areas, including the U.S. EEZ. The U.S. Coast Guard has verified our vessels as "grandfathered" and issued letter rulings to each one. Access to the US EEZ is becoming increasingly important with increased competition from foreign fleets. The US EEZ in the Pacific represents important historical fishing areas that our vessels have relied on for decades.

After years of negotiations with the 16 Pacific Island Parties, all parties formally agreed to the "renegotiated" Treaty text and Annexes on December 3, 2016, in Nadi, Fiji. Soon thereafter all parties signed a Memorandum of Understanding committing to provisionally implementing the new Treaty amendments, allowing U.S. vessels to continue to operate without interruption. While the renegotiated Treaty was finalized at the end of the Obama administration, it was the first treaty that President Trump submitted to Congress on August 28, 2018. Finally, in June 2022 the Senate Foreign Relations Committee recommended that the Senate give its advice and consent to ratification and on July 19, 2022, the Senate did just that! While the full Senate has given its advice and consent for ratification of the renegotiated Treaty, we are told the White House is waiting for Congress to approve Treaty implementing legislation prior to depositing the instrument of ratification. We've provided this background to illustrate the importance of action on H.R. 1792 by your Subcommittee and the full Committee.

The amendments made by H.R. 1792 to Sec. 9 (16 U.S.C. 973g Licenses of the South Pacific Tuna Treaty Act of 1988) clarify and maintain the grandfather for our vessels. These changes were necessary because the renegotiated Treaty text eliminates the term "Treaty area" and instead uses the term "licensing area". We strongly support the changes made to Sec. 9 by H.R. 1972 as it will preserve the original intent of Congress in 1995.

We want to thank you for scheduling the hearing on H.R. 1792 and ask for your support in moving the bill. Please contact our Washington representative Mr. Jeffrey Pike (202 731-9148) should you require any additional information.

Sincerely,

F/V Western Pacific
Stuart Chikami

F/V Evelina Da Rosa
Larry Da Rosa

F/V Pacific Princess
Ricardo da Rosa

F/V Sea Encounter
Randall De Silva

Mrs. RADEWAGEN. Thank you, Mr. Chairman.

Mr. Gibbons-Fly, can you describe some of the challenges the U.S. fleet has had because the treaty implementation language has not yet become law?

Mr. GIBBONS-FLY. Yes, good morning, and thank you.

In my written and oral testimony, I described the largest issue, which is the inclusion of the high seas, that the high seas remains included within the treaty area so that we can't fish on the high seas without a license. That is the largest issue.

But beyond that, there were some additional provisions of the treaty that allowed the U.S. fleet to negotiate independent of the

treaty with the Pacific Island States, so that they could negotiate agreements either under the umbrella of the treaty or completely independent under whatever terms and conditions might be agreed, which allows a lot more flexibility in terms of the nature of the requirements that would apply to the U.S. fleet.

But because we can't fish in the treaty area without a treaty license, that second option that I just described is not yet open to us. So, we are limited in the access to the high seas. We can't fish there without a treaty license, and we can't negotiate those alternative agreements under which we might be able to negotiate better terms and conditions which are desperately needed by the fleet as the cost of access continues to increase, and increase, and increase.

And this might not sound like a big deal to somebody sitting in this room listening, but to a fleet that is struggling to survive each and every day, every option and every bit of flexibility that we can find is vitally important.

Mrs. RADEWAGEN. Thank you. And as a follow-up, among the challenges facing your industry your written testimony references certain pending domestic regulatory actions. Can you tell us more about these and the potential impact on the fleet?

Mr. GIBBONS-FLY. Yes, thank you for that question. I will mention two in particular, two issues that are seemingly separate and apart but, if implemented together, would have a devastating impact on the American Samoa-based purse seine fleet.

The first is that, under the international management regime that applies in the Central and Western Pacific, the United States is allocated a certain number of fishing days for the high seas in the U.S. EEZ. Historically, the United States has implemented that as a combined quota so that those days could be fished either in the U.S. EEZ on the high seas. The current administration is proposing to take over 500 of those days out of a total of roughly 1,800, so almost a third of those days, and require that they be fished in the U.S. Exclusive Economic Zone.

The second issue is that a separate part of the Administration is proposing to close the entire U.S. EEZ to fishing under the establishment of a National Marine Sanctuary in what is called the Pacific Remote Island Areas. So, if you take 500 days and say they can only be fished in the U.S. EEZ and then you close the U.S. EEZ, those days have essentially disappeared. And the only option for the vessels to recoup those days is to negotiate bilateral access with the Pacific Island States at up to $13,000 per vessel per day.

So, in my opinion, this combination of actions, if implemented, would have a seriously detrimental and even a potentially existential threat to the American Samoa-based fleet.

Mrs. RADEWAGEN. Thank you very much for your responses.

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

Mr. BENTZ. Thank you. The Chair recognizes Mr. Carl for 5 minutes.

Mr. CARL. Thank you, Mr. Chairman. I would like to real quickly back up just a second, a conversation that Dr. Kryc and Congressman Graves had about the juvenile snapper.

I pulled up here—he gave me LSU, I don't trust LSU a whole lot over Alabama, but we will have to go with LSU numbers here.

[Laughter.]

Mr. CARL. Just for the record, those fish that Garret caught were actually from Alabama. That is the reason they are red. But the LSU says that a snapper will give birth between the age of 2 and 6. Two years old is when they start giving birth. At 2 years old, they lay 1,000 eggs 30 times during the spawning season. At 6 years old, they are laying 2.5 million eggs during the spawning season. For a lifetime of those 4 years, 4 billion eggs is what they are laying. So, the numbers that she was talking about and the numbers we are trying to point out do not get anywhere close. I don't think that is an issue.

Mr. Graham, thank you for being here today. I thank all the members on this panel for being here. And I sympathize with some of the situations that you all were put in. But the SHARKED Act is what I want to focus on, because it is huge down in the Gulf. It is a huge problem we have, also.

Tackling the increase of the problems with the sharks depredation, which is significant, implicating for both recreational fishermen and the balance of marine life. You can't bring a snapper in without sharks chasing it. If they get it, they get it, and you go back after another one. Unless you have seen it, and I will be fishing next week in the Gulf, you can't believe it. They lay up under the boat, in the shadows, and they wait.

But this SHARKED Act is a critical first step toward addressing this issue on a national scale, I should hope, and I appreciate the Congressman for advancing this.

My question, Mr. Graham, can you tell me more on how the sharks depredation has affected your business? Because I am a businessman, and I am always about the nickels and dimes, and I want to know how it affects your business.

Mr. GRAHAM. It is pretty wild. I mean, there are a lot more boats this year tied to the dock. We are getting letters, we are getting calls, asking, "Are the sharks there?" We catch mahi one day, but we don't want to catch the sharks anymore. So, it is really starting to hit home.

At the beginning, we were kind of, OK, well, this is maybe just a phenomenon that is going to happen, be gone overnight. You know how fishing is, sometimes something goes on for a little while, but then it changes. But this has, like I said, become exponentially worse. And now we can't look our customers in the eye and tell them that they are going to have any fun today. We can promise them they will get some bites. We can promise them that we will have some action. But the fish just don't come on the boat, and we lose all our tackle. We lose all our gear, everything like that.

So, the fact that the sharks have made our sustainable fishery unsustainable is definitely affecting our business in a major way. It is affecting local businesses in a major way on the commercial side, restaurants, everything like that.

And then, people coming into town to stay at the hotel, stay at the houses, as well as the recreational private boats who used to come in droves. On Memorial Day weekend, you would see 600 or 1,000 boats out there. And now there is no one there, except us

charter boats who have to suffer through another 1,000 or 2,000 pounds of tuna lost each day.

Mr. CARL. I agree with you. I was trying to pull it up to find out what type of shark it is, but we are seeing sharks down on the Gulf Coast we have never seen before. The world's largest fishing rodeo, most people probably don't realize it, but it is in Dolphin Island, Alabama, and I think they had 40,000 tickets. That is 40,000 boats that fished in that tournament.

Mr. GRAHAM. Wow.

Mr. CARL. They caught a 1,069-pound shark.

Mr. GRAHAM. I saw that.

Mr. CARL. OK, you are the expert. I am not going to tell you what type of shark it was. Maybe you knew. But it just blew the records that had been going on for 70 years. This is not a new event. So, these sharks are getting much larger. They are getting closer to the shores. Of course, Orange Beach and Gulf Shores is beautiful, and Prestige Beach resort in my district also we are seeing lots of sharks, again, that we have never seen before.

So, I appreciate this bill and I appreciate your efforts.

Mr. GRAHAM. Thank you, sir.

Mr. CARL. And what your industry does is very important in my district also.

So, that said, Mr. Chairman, I yield back.

Mr. BENTZ. Thank you, Mr. Carl.

Mr. LaMalfa, you are recognized for 5 minutes.

Mr. LAMALFA. I am sorry, panelists and fellow colleagues, I have had two other simultaneous committees, both that had votes during them. Right, Mr. Carl? Anyway, I am kind of parachuting in.

But I was curious, Mr. Gibbons-Fly, just in general, I caught part of the conversation here about how many fishing days you are allowed, and licensing and offshore international waters and all that. How well do other countries adhere to similar standards of what the United States has for its fishermen?

Does China even have them?

Do other countries even have them like this, or are we the only ones that have these, it sounds like rationing of days, et cetera?

Mr. GIBBONS-FLY. Well, there are a couple of different layers to your question, Congressman, and thank you very much for the question.

The first is there is a series of rules to which all countries are expected to comply, but no one enforces those rules as strictly and with as much rigor and with the level of penalties as the Government of the United States applies to the U.S. fleet. So, we are facing an unlevel playing field there. And, clearly, we would simply like the other countries to enforce the rules in the same way that the United States does.

There is a second element to this that different countries can operate under different rules. The Pacific Island States, for example, exempt themselves as developing states from a number of the requirements. But this creates a loophole for countries like China, like Korea, like Taiwan, who can reflag their vessels, can enter into charter arrangements, and then themselves become exempt from those requirements.

So, the United States is complying with one set of requirements and the number of vessels that are exempting themselves by reflagging and chartering is going up, and up, and up. So, the playing field is becoming more and more unlevel.

Yet, the Convention itself provides that participating territories like American Samoa are to be treated in the same way as the Pacific Island States, and that is not happening with respect to the American Samoa-based fleet.

Mr. LAMALFA. Thank you. It sounds like it is probably almost impossible to keep everybody level, even if you are allowing extra for particular states to even keep them within the two tiers and with the reflagging and all that. So, I guess what you have to do, just go out-fish them until the whole thing is over with.

So, thank you. Let me jump to another panelist here.

Mr. Besher, with the issue of cow and calf kills due to predators and such, I sympathize with what you have to deal with on proving it, whether you have a wolf kill or a grizzly, I guess. So, the topic here I have is what is happening with predatory black vultures, is there a reimbursement plan for that?

What kind of proof is there on that?

Comment on any of those, whether it is the vultures or go back to the wolf and the grizzly, if you wish.

Mr. BESHER. Thank you, Congressman, for the question. Yes, there is a livestock indemnity program, but you have to meet a threshold of 5 percent loss over your total herd before——

Mr. LAMALFA. On the vulture or all the predators?

Mr. BESHER. On all predators, sir.

Mr. LAMALFA. So, you have to lose 5 percent before they talk to you, basically?

Mr. BESHER. Yes.

Mr. LAMALFA. Five percent?

Mr. BESHER. Yes, through the Farm Service Agency.

Mr. LAMALFA. So, my understanding, and I am kind of loose on it right now, is that each time there is a calf kill, or a cow kill, or whatever, that you document that and Fish and Wildlife is supposed to come take a look. And my understanding is there is supposed to be reimbursement for each time it happens if they agree that it has been proven.

Mr. BESHER. In Missouri, how it reads right now is you have to have a licensed vet or a USDA APHIS official come out and do a necropsy, and prove that the animal was taken alive. And you turn those in at each take.

Mr. LAMALFA. How much does it cost to process that, who is paying for that?

Mr. BESHER. Well, in Missouri right now, the Missouri Department of Agriculture will reimburse you $250. But with the shortage of veterinarians across this country, you are not going to get one without him being on an emergency basis, and we have to pay a $250 emergency fee. Then the necropsy will probably cost you another $250. So, you are going to be out $250.

Mr. LAMALFA. What would be a nice, round number for how much income you would make from that head of stock, generally?

Mr. BESHER. In today's time, about $2,200.

Mr. LAMALFA. So, $500 off the top of that, on all the massive margin you have, right?

Mr. BESHER. Yes, very massive.

Mr. LAMALFA. And that differs from state to state. It sounds like Missouri has different rules than others.

Mr. BESHER. I believe so, sir, yes.

Mr. LAMALFA. Yes. Because in California, where I am from, unfortunately, as far as the politics of it, I love my home, but anyway, our guys, especially up in Northern California like Siskiyou County, eastern Shasta County, like that, they have a devil of a time getting them to verify, yes, this is a wolf kill. I mean, what else is it? They say, "Well, we don't know."

So, I mean, any more thoughts on that?

Mr. BESHER. Well, and verifying that loss is getting tough to do. You know, USDA APHIS, they are stressed for personnel to get one of them out, a shortage of veterinarians.

Mr. LAMALFA. Do you believe we have a shortage of wolves in this country yet?

Mr. BESHER. No, I do not.

Mr. LAMALFA. Time to pull it off the endangered species list?

Mr. BESHER. Absolutely.

Mr. LAMALFA. Yes. All right, God bless you, sir. You hang in there. Hopefully, the cavalry is coming here. Take care.

Mr. BENTZ. Thank you, Mr. LaMalfa. The Chair recognizes Mr. Rutherford for 5 minutes.

Mr. RUTHERFORD. Thank you, Mr. Chairman.

First, I want to thank all of the witnesses for being here today, and I really do appreciate you coming up and informing us about all these issues and your positions.

Mr. Atkinson, if I could ask you, do you believe that the current data collection process does a good job capturing data on recreational fishing, specifically on recreational discard data for our reef fish?

Mr. ATKINSON. Sir, I know that is part of the stock assessment, and I know that stock assessment based on that has been deemed the best available science by those who make such decisions.

Mr. RUTHERFORD. So, is that a yes or no?

Mr. ATKINSON. It is the best available, sir. So, I suppose that is a yes.

Mr. RUTHERFORD. OK.

Mr. ATKINSON. It will get better, as well.

Mr. RUTHERFORD. Mr. Chairman, if I could, I would like to ask unanimous consent to place in the record the September 13, 2022 South Atlantic Red Snapper Council report from NOAA.

Dr. WITTMAN [presiding]. Without objection.

Mr. RUTHERFORD. Thank you.

[The information follows:]

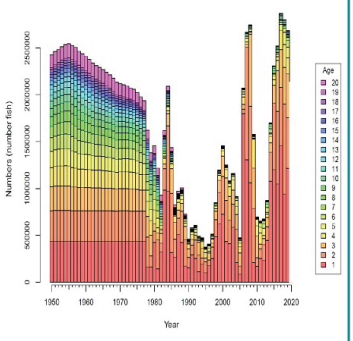
NOAA FISHERIES
SERO

South Atlantic Red Snapper

Snapper-Grouper Committee
September 13, 2022

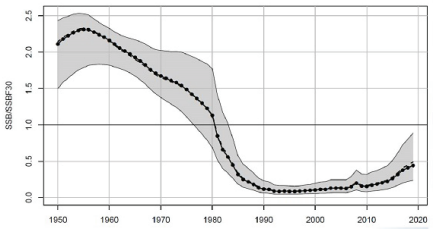
Andy Strelcheck
Regional Administrator
NOAA Fisheries SERO

Success: Stock is Rebuilding



Abundance (numbers of fish) at high levels, but driven by age-1 recruitment

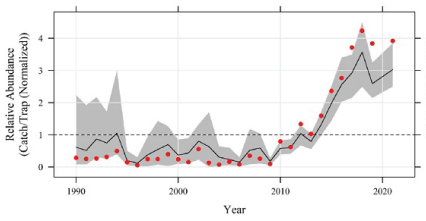
Spawning Stock Biomass (fecundity) below rebuilt level



Recent High Recruitment

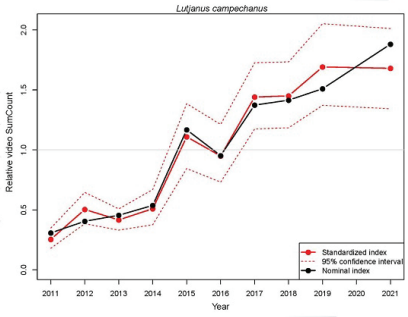
Good News: Indices Are Increasing

Fishery-independent Trap Survey

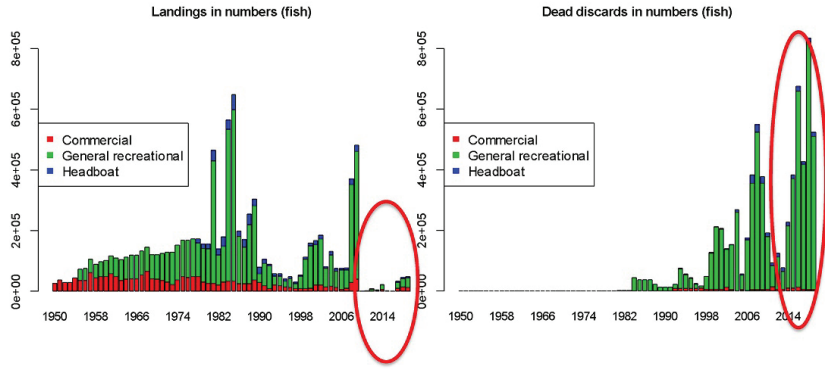


Nominal (red dot) and standardized (black line)

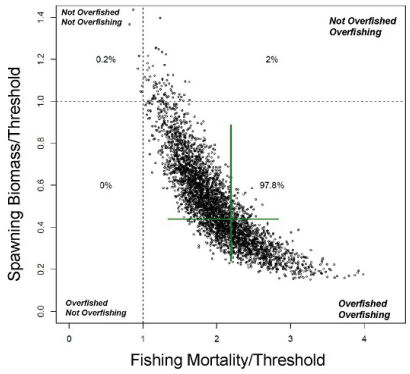
Fishery-independent Video Survey



Challenge: Low Landings and High Discards



And there is Scientific Uncertainty



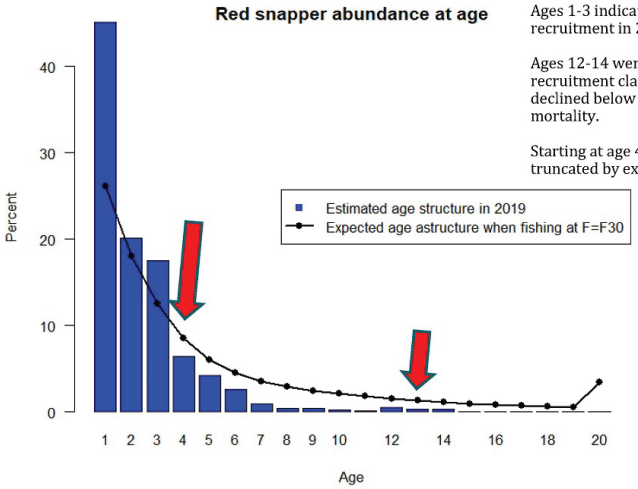
Model Uncertainty

Data Uncertainty:
- Commercial Discards
- Recreational Discards

Population Dynamic Uncertainty:
- Sources of Recruitment
- Environmental Changes

14 other sensitivity runs – all concluded stock was overfished; 1 hypothetical run with low discards indicated overfishing was not occurring

So How Can the Stock be Undergoing Overfishing?



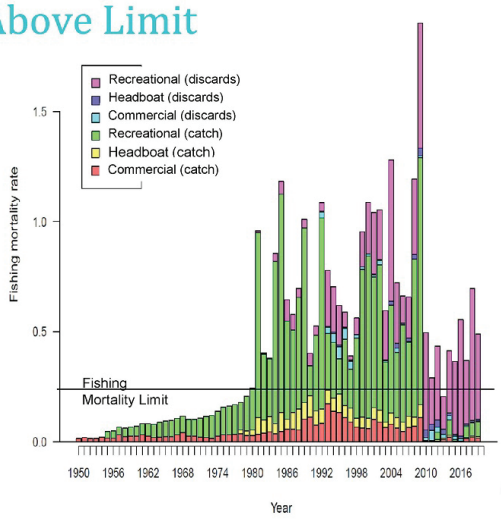
Ages 1-3 indicate above target recruitment in 2016-2018.

Ages 12-14 were above average recruitment classes and have since declined below target due to high mortality.

Starting at age 4, age structure becomes truncated by excessive mortality.

Fishing Mortality Rate Has Declined But Remains Above Limit

Majority of mortality from recreational discards



NOAA FISHERIES

Legal requirements and NS guidance

- Implement regulations to end overfishing immediately and rebuild the stock
- Evaluate the cause of overfishing and address the issue that caused the overfishing
- Set catch limits at a level that prevents overfishing and does not exceed the SSC's ABC
- Minimize bycatch and bycatch mortality to the extent practicable

NOAA FISHERIES

Moving forward

Will preferred approach achieve management goals and legal requirements?

- Reducing the ABC will mean a shorter commercial and recreational seasons
- Gear modifications will reduce discards and discard mortality, but by themselves, likely won't be sufficient
- We need to explore new approaches to reduce discards and increase opportunities in the fishery as the stock rebuilds

NOAA FISHERIES

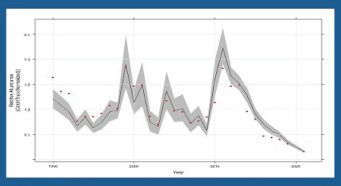
And We Should Keep in Mind that this is Bigger than Red Snapper

- Multi-species snapper grouper fishery
- High levels of fishing effort; overcapitalization
- Modern electronics
- Open access sectors

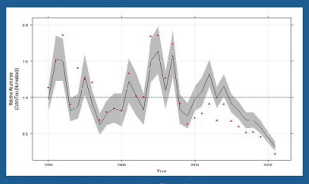
NOAA FISHERIES

Abundance is declining for many other Snapper-Grouper species

black sea bass



red porgy



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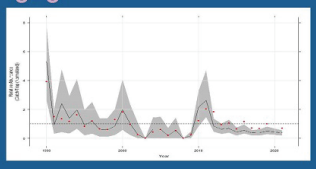
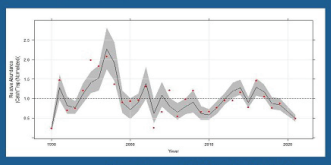


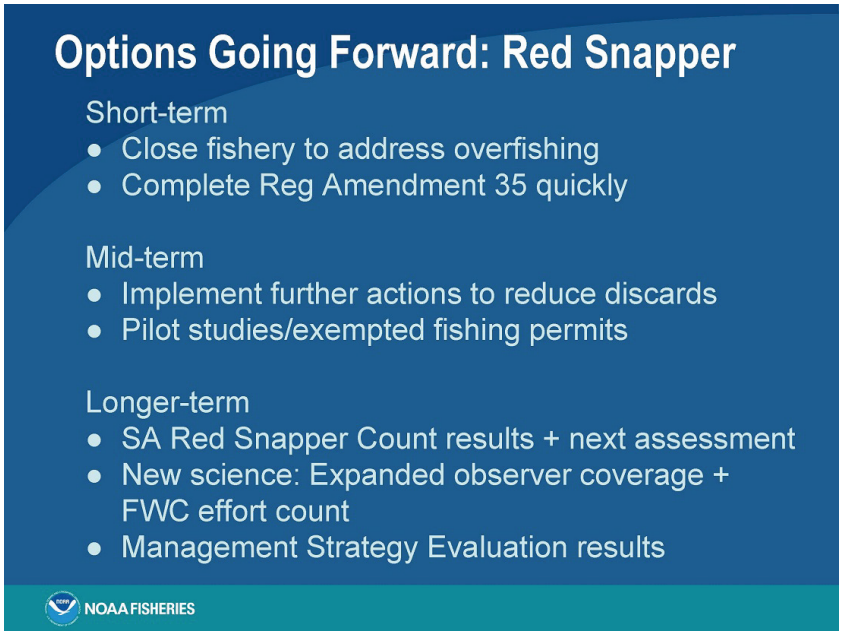
gray triggerfish



Southeast Reef Fish Survey

Options Going Forward: Snapper-Grouper

- Limit Catch – Adjust Catch Levels
- Technological Solutions to Reduce Encounters and Discard Mortality
- Limit Effort
- Limit Where/When Fishing Occurs
- A combination of all of these



Mr. RUTHERFORD. And, Mr. Chairman, that is the report that I referenced earlier, where on page 5 NOAA says, in big letters here,

"And there is scientific uncertainty, data uncertainty. Commercial discards, recreational discards," and this entire conversation revolves around these discards, so that is why I am a little concerned when we start to rely on those discard numbers in driving our policy.

So, Director McCawley, if I could ask you, talk about your concerns about the current data collection. Also about these high discard numbers, how they are driving this whole conversation. And do you think we are capturing good data?

Ms. MCCAWLEY. Thank you for that question, Congressman, and I also want to thank you for all of your efforts to conserve Florida's resources.

I would say that the state of Florida is definitely trying to get better data on recreational discards. The state of Florida has the state reef fish survey, which is trying to get targeted information because NOAA's MRIP data doesn't really capture those offshore reef fish very well in their surveys. So, we are definitely trying to get better information.

And we also think that, with NOAA's exempted fishing permits that they say they are going to give to the states in the coming months, that we can get even better data about the discard information. And as you mentioned earlier, that Great Red Snapper Count, that is going to get better information about recreational discards in that fishery, as well.

Mr. RUTHERFORD. Right. And I would point out also to the Committee that this bill, the Red Snapper Act, does nothing to impede what the Council is already moving forward with in their management of this fish stock, it does nothing. It simply says, until you get this new data, you can't take these extreme measures. Can you talk about the impact that these closures would have not just on this species, but the taking of the other species, as well?

Ms. MCCAWLEY. Yes, thank you for that question.

I talked about in my testimony that, yes, there are 55 species in that snapper-grouper complex, and the discussion is primarily for northeast Florida to close down fishing for all 55 species in order to try to get at this discard issue for one, for red snapper.

We indicated in our testimony that we are talking about hundreds of millions of dollars' worth of impact, and over 3,500 jobs alone, just on the recreational side.

Mr. RUTHERFORD. Thank you very much.

And Mr. Chairman, I would like to go on record I will be co-sponsoring all of the bills that I have heard discussed here today. I am very supportive of what all these witnesses are trying to achieve.

And I would like to request that the Committee support the Red Snapper Act. We don't need to be doing economic damage to particularly northeast Florida when we have bad data. We can wait for the good data.

With that, Mr. Chairman, I yield back.

Mr. WITTMAN. I thank the gentleman from Florida, and now recognize Mrs. Luna for 5 minutes.

Mrs. LUNA. I am just going to piggyback off of what my colleague just said.

We obviously have a massive red snapper fan base in my home state of Florida, especially in Pinellas County. But in a multi-year-long study, it has been now found, and I am sure you have heard these stats already repeated, but we now have over 118 million red snapper in the Gulf of Mexico, which is drastically different from the 36 million that was previously reported, and I even went as far as signing a letter with a majority of my Florida colleagues to appropriately increase the red snapper quota for the Gulf of Mexico anglers to stimulate our economy.

With the South Atlantic Great Red Snapper Count now underway, NOAA indeed should be using more updated information in their decision-making process. But instead, to my understanding, they are not doing so. So, my questions for you guys, and specifically Ms. McCawley, is does it make sense for the fishery management decisions to be made on incomplete and outdated data?

Ms. MCCAWLEY. Thank you, Congresswoman, for your question. And also thank you for all of your efforts to conserve Florida's resources, and I would say, no, it doesn't make sense for them to make decisions when we have this new data on the way.

And also, we don't necessarily agree with that discard information that they are using right now, which is why Florida has gone so far as to establish a new survey, the State Reef Fish Survey, to try to get additional information.

And we are also supportive of that Great Red Snapper Count that was wonderful in the Gulf. And we are excited about the results over on the Atlantic in hopes that it will be used in the stock assessment before any draconian measures are taken.

Mrs. LUNA. You probably just gave, I think, most of Florida's fishermen a massive morale boost. So, I am going to clip that and post it on my social. So, you guys heard it here. She said it. She agrees with us.

OK. Prior to proposing their draconian closures in the South Atlantic last year, did NOAA consult with state agencies like Florida Fish and Wildlife Conservation Commission or anglers that are on the waters every day about the impacts that their decision would have on local businesses and the fishing economy?

Ms. MCCAWLEY. Yes, thank you for that question. NOAA sits on the South Atlantic Council with us, so they do hear from fishermen as they come to the Council to give public comment. And we also interact with our Federal colleagues.

However, I don't know that they fully understand the magnitude of what those closures would do, the economic impact, the number of jobs that would be affected if a closure were to be implemented.

Mrs. LUNA. To your understanding, are any of those people that sit on that Council with you, are they fishermen, or business owners, anglers? Like, legitimate anglers?

Ms. MCCAWLEY. Yes, thank you for that question. There are both recreational fishermen and commercial fishermen, as well as state agency reps like myself on that Council.

Mrs. LUNA. That are represented by NOAA?

Ms. MCCAWLEY. Oh, NOAA just has one seat. Thank you for that clarification. NOAA just has one seat and one vote on that Council.

Mrs. LUNA. And do you know if that individual is an angler, professional fisherman, or small business owner?

Ms. MCCAWLEY. No, he just works for the Federal agency. I think maybe he fishes in his spare time. But no, he is not a professional fisherman.

Mrs. LUNA. So, he is a B word, a bureaucrat, yes?

Ms. MCCAWLEY. Yes.

Mrs. LUNA. OK. Well, Chairman, I yield the rest of my time.

Thank you very much for coming today.

Mr. BENTZ [presiding]. Thank you, Mrs. Luna. The Chair recognizes Mr. Rose for 5 minutes.

Mr. ROSE. Thank you, Chairman Bentz, and thank you for the opportunity to waive on to the Committee today, for holding this important hearing.

Mr. Besher, I just wanted to start out by saying thank you for traveling here from Missouri to offer your testimony on behalf of the National Cattlemen's Beef Association, NCBA. I believe that your perspective as a cow-calf producer is vitally important to the discussion surrounding how best to tackle black vulture depredation.

Mr. Besher, in your written testimony, you highlighted that even in a year where markets in your industry are favorable to producers, that your margins are slim. Would you discuss just how devastating financially black vulture depredation can be to producers who operate on such slim margins?

Mr. BESHER. Thank you, Congressman, for the question. Yes, we do have slim margins, sir. And right now, our average, we will lose three to four calves a year. In today's markets, those animals are worth anywhere from $2,000 to $2,500 finished out. So, that is a big financial loss. And you take what the average cow size, 100 or less, that is a big hit to a farmer.

And not only are you losing the financial there, but the genetics that you have just lost in that animal. Most producers are growing their herds, increasing their genetics, so all that is down the drain also.

Mr. ROSE. Thank you. And Mr. Besher, my bill, the bipartisan Black Vulture Relief Act of 2023, has a once-a-year reporting requirement. Do you feel that a once-a-year reporting requirement is sufficient for monitoring population management while also balancing against overly burdensome reporting requirements for producers?

Mr. BESHER. I do. I mean, and right now we have a Federal permit and we report our takes at the end of every year. And that gives you a checks and balances of what is being out there, how many are being hatched out.

We actually have a nest that was actually hatched out in one of our barns. We had to get USDA APHIS down there to relocate those.

But yes, I think a 1-year checks and balance would be appropriate.

Mr. ROSE. And I think you have just made reference to my next question, but "take" under the Migratory Bird Treaty Act doesn't necessarily mean killing the bird. It can mean disturbance of an animal or its habitat. Can you talk about the non-lethal tools that you currently use as part of your operation and their relative success?

Mr. BESHER. We have used a lot of non-lethal tools, anywhere from pyrotechnics, which we cannot use right now because we are in a very serious drought, afraid of starting a wildfire. We have used propane cannons that are effective for maybe a day or two.

The only effective tool is to use an effigy, is to take an animal, hang it in a tree, fence row. That is the only effective tool that we have found that works. But the issue with that is that you are taking the buzzard population that is on your place and you are pushing it off on your neighbor. So, the problem is not going away, you are just moving it to another area.

Mr. ROSE. In your written testimony, you also referred to the connection between grazing and rotational patterns and forage use and these black vultures. If you could, address what it means for your operation, day to day.

Mr. BESHER. We practice rotational grazing on our operation just for soil health and increasing forage mass. By pulling the cattle down tighter, we will pull 200 cows down into a 50-acre paddock, condense them. When we get an attack from some vultures, there are usually 40 or 50 in the group. Pulling the animals down tighter, that gives more defense to the little calves.

We should not have to look over our animals that closely. It is very sad every day when you go out and check your cattle or feed your cattle, that you have to carry a firearm with you.

Mr. ROSE. And we discussed this earlier, but I am also a cow-calf producer. And speaking to that same issue of how you manage your pasture, your grazing rotation, we had such a significant presence of black vultures on one of my farms where we literally had to abandon use of that particular 300-acre tract because there were 300-plus black vultures there. Any cow that attempted to calve or we had calving during calving season was attacked. And literally, to solve that problem we would either have had to kill 300 black vultures, or a significant number, or move them.

So, I appreciate, again, you being here today. I want to just stress how important this issue is to cow-calf producers and livestock producers all across the country.

Thank you. I yield back, Mr. Chairman.

Mr. BENTZ. Thank you, Mr. Rose. The Chair recognizes Mrs. Boebert for 5 minutes.

Mrs. BOEBERT. Thank you, Mr. Chairman.

Mr. Wolff, I want to thank you again for making the trip to come out and testify on H.R. 4596. This is a very important bill.

I know that you have touched on it in your testimony, and I appreciate that, but would you mind expanding upon the successes of this program that it will have once it is reauthorized by this bill?

Mr. WOLFF. Thank you for the question, Representative Boebert.

I think the successes have been outlined in the two original goals: recovery of the fish species and administration of allowing water development to go forward unhindered. Those things have gone forward for 30-plus years. The alternative to that is the burden of individual section 7 compliance, the conflicts that brings, and the potential litigation of which we have seen none of that with these programs.

So, reauthorization of the programs will allow a cooperative, collaborative process to move forward and do good without bringing some of the other things we have seen across the country.

Mrs. BOEBERT. Yes. So, we have seen the recovery. We have seen the downlisting of the humpback chub, and then we have also seen that the razorback is recommended for downlisting.

Capital funding also supports major infrastructure projects at reservoirs, diversion dams, canals, and floodplains across the basins.

Can you expand upon how including diverse stakeholders in the conversation to draft this 7-year authorization improved this legislation?

Mr. WOLFF. Thank you for the question.

I think the success of the programs have been because everybody is at the table making the decisions. We all work together. Whether you are a water user, you work for a conservation group, you are a state, you are a Federal entity, a tribe, hydropower, we are all at the table making the decisions together and collaboratively. So, we have all been able to move the program forward, and we hope to be able to continue that.

Mrs. BOEBERT. Mr. Wolff, of the 2,500 water users that benefit from this legislation, 1,200 of them are located in Colorado. Would you mind discussing the consequences for local communities if these important programs aren't reauthorized?

Mr. WOLFF. Thank you for the question.

I think, without the reauthorization, these programs will go away and we will get back to what I mentioned, individual section 7 compliance that brings burdens, conflict, and probably litigation. And I would argue, probably cease to see the advances in recovery of the species we have seen under the programs. It is a model that we don't want to see. We want to continue forward with the cooperativeness that we have seen.

Mrs. BOEBERT. Yes. And I would also add that leaving this work unfinished will risk losing control of critical water sources that underpin and help grow local economies. These projects provide water for local municipalities, tribes, major reservoirs, agriculture, ski areas, power generation facilities, and others that use more than 3.69 million acre-feet of water per year.

Mr. Wolff, you touched on it in your testimony, but can you elaborate on the non-Federal contributions being made by states and local stakeholders to support these programs?

Mr. WOLFF. Oh, absolutely. Thank you for the question.

Non-Federal contributions come in three forms. First, all the states and some other partners provide some cash into the program themselves. There are significant non-cash contributions. Many of the states work on a lot of the monitoring and research efforts relative to the species and some of the propagation. There is also a significant amount of water contributions to the programs by many entities within the system. That is a voluntary contribution provided to help meet flow targets in certain critical reaches of the habitat. So, those are the three main non-Federal contributions.

Mrs. BOEBERT. Thank you, Mr. Wolff. Can you also elaborate on the importance of non-Federal water users contributing nearly 3 million acre-feet of water to benefit endangered fish?

Mr. WOLFF. Absolutely, thank you for the question. And I think I just started to address that.

There are certain critical reaches that are very, very important to the recovery of these fish species. Several entities across the basin contribute water on an annual basis to help to meet flow targets, meet the habitat needs of the fish. And that has been critical in the recovery of the fish species that we have seen.

Mrs. BOEBERT. And just while we have 20 seconds, is there anything else on this program that you would like to add?

Mr. WOLFF. I think I have said it. These are cooperative, collaborative programs that benefit water users across the basin, and we are recovering fish species.

Thank you for introducing the bill. We hope to move it forward.

Mrs. BOEBERT. Yes, thank you. I hope to see its quick passage, and I thank you again for making the trip, and thank you to the rest of the witnesses who are here today.

Mr. Chairman, I yield.

Mr. BENTZ. Thank you, Mrs. Boebert. The Chair recognizes himself for 5 minutes.

Mr. Shawcroft, in the bill there is a phrase the you want to use the "unexpended budget authority." How much is left?

Mr. SHAWCROFT. There is approximately $100 million left that could be transferred and used for these conservation efforts.

Mr. BENTZ. The term "conservation" as defined in that bill is of interest to me because it has a wide variety of uses. As is reflected in this bill, what does it mean?

Mr. SHAWCROFT. In this case, conservation means taking water that was used for one purpose and being able to use it for another purpose.

So, for example, one of the items that we are pursuing is grass turf removal. So, the water that would have otherwise been used on that grass would now be able to be used for other purposes, which may be growth——

Mr. BENTZ. Forgive me for interrupting, but it is not the paper, right, that you are working from. It is the actual amount that was consumed by the grass that is the measure of conservation, is it not?

Mr. SHAWCROFT. Correct.

Mr. BENTZ. Yes.

Mr. SHAWCROFT. It is an actual measurement, acre-foot, of water that is used for a different purpose.

Mr. BENTZ. Correct. Thank you for that.

Mr. Besher, I am from a cattle ranching background, so I have seen all that you have described. I note in looking during some of the other testimony that the number of these black vultures back in 2018 was around 4.26 million, and that it was suggested that in some spaces you could "take as many as 287,000 a year."

So, I am just curious, has someone done a study to suggest, if this bill passed and you were allowed to take these creatures without having to go through the work of acquiring a permit, how long before you wipe out the population? You have 4.2 million to take. That was 5 years ago.

Mr. BESHER. Thank you, Congressman, for the question. I am unfamiliar with the breeding pattern of these, but the steady

increase that we have seen over the past years, I mean, producers are not wanting to wipe them off the face of the Earth. We are just wanting to get this population in check where they are not depredating our calves.

Mr. BENTZ. Yes, I just checked and the estimate is the population increases by between 1 and 4 percent a year. So, my point is, the odds of cattle ranchers wiping out the population is zero. And, in fact, even keeping up with the increase in population at this particular point is unlikely.

Mr. BESHER. Absolutely.

Mr. BENTZ. Is that a correct take on the situation?

Mr. BESHER. Yes, sir.

Mr. BENTZ. So, why in the world you are having to go through this work is unclear to me.

I want to shift to Mr. Graham. The concept of too many black vultures on the one hand, and now too many sharks on the other is pretty apparent. But is that the outcome that you are seeking when it comes to this independent group?

Sure, we already know you are suffering depredation issues. What is it that you want to see happen?

Mr. GRAHAM. Well, I mean, and too many red snappers, too. We have to talk.

But I think there are a lot of answers. I mean, like I said, we have been trying to use devices. I think we need to research why. I think we need to know why this is happening. Is it because we protected all these fish species? Is it because we protected the vultures? Is it because we protected all these different species of sharks, and has that conservation worked? And if so, we should be very proud of that.

But we have now created a sustainable resource, made another resource unsustainable, a more popular resource of tuna and steak, I might add. So, now we need to know how do we sort this out to where we can balance this thing.

Mr. BENTZ. What is the life of a shark? How long does a shark live?

Mr. GRAHAM. Oh gosh, it would have to be in the 40 to 50 years range.

Mr. BENTZ. So, if you are going to rely upon figuring out how to make the population decline naturally, you have a long wait. Is your suggestion that, should the study indicate there are too many sharks, then there is going to be some way to reduce the population? Is that the ultimate outcome you are seeking?

Mr. GRAHAM. I think there are ways to definitely reduce the population in a sustainable way, absolutely. So, if that be the case, there are markets, there are fish. A tuna is a fish, so absolutely.

I think you have to look at the previous markets from previous years before this was an issue, and go from there and see how we can sort it out.

Mr. BENTZ. All right. I want to thank the panel for all of your patience with our questions and for sitting in such close quarters. I really wish we had had more space for you. And I want to thank you for your testimony and thank the Members for the questions.

The members of the Committee may have some additional questions for the witnesses, and we will ask you to respond to these in writing.

Under Committee Rule 3, members of the Committee must submit questions to the Subcommittee Clerk by 5 p.m. Eastern Time on Tuesday, August 1. The hearing record will be held open for 10 business days for these responses.

If there is no further business, hearing none, without objection the Subcommittee stands adjourned.

[Whereupon, at 1:10 p.m., the Subcommittee was adjourned.]

[ADDITIONAL MATERIALS SUBMITTED FOR THE RECORD]

Statement for the Record

U.S. Department of the Interior
on H.R. 4094, Great Salt Lake Stewardship Act

Thank you for the opportunity to provide this statement on H.R. 4094, the Great Salt Lake Stewardship Act. If enacted, this legislation would amend Title II of the Central Utah Project Completion Act (CUPCA) P.L. 102-575 and include a new Section 213. Enacted in 1992, Title II of CUPCA authorized budget authority for development of Central Utah Project features and created a successful water conservation program entitled the Water Management Improvement Program, in Section 207. This new Section 213 would provide additional flexibility for the Department to utilize any unexpended budget authority that may be available from other sections of Title II to augment the Water Management Improvement Program.

In addition, H.R. 4094 would expand the geographic area covered by CUPCA's Water Management Improvement Program to consider water conservation measures in the Great Salt Lake drainage basin. Water conservation measures implemented under this amendment would be considered compliant with the Bonneville Unit's Definite Plan Report.

Drought and climate change are having a significant effect on water resources in the Western United States including impacts to the Great Salt Lake. Should Congress enact this legislation, the Department will consider additional water conservation measures, including in the Great Salt Lake drainage basin, while continuing to prioritize construction of the Central Utah Project.

Statement for the Record

U.S. Bureau of Reclamation

H.R. 4596, Upper Colorado and San Juan River Basins Endangered Fish Recovery Programs Reauthorization Act of 2023

Thank you for the opportunity to provide Interior's views on H.R. 4596, Upper Colorado and San Juan River Basins Endangered Fish Recovery Programs Reauthorization Act of 2023.

H.R. 4596, Upper Colorado and San Juan River Basins Endangered Fish Recovery Programs Reauthorization Act of 2023

This bill would extend authority for the Upper Colorado River and San Juan River Basin endangered fish recovery implementation programs (recovery programs). Reclamation supports and urges reauthorization of these important and successful recovery programs. Reauthorization of the recovery programs provides certainty for the programs and ensures current and future water development in the Upper Colorado River Basin.

For more than 30 years, the recovery programs have been a model of Endangered Species Act (ESA) implementation. The recovery programs' goals are to protect and recover federally listed fishes (Colorado pikeminnow, razorback sucker, humpback chub, and bonytail) found only in the Colorado River basin while water development proceeds according to federal and state laws, interstate compacts, Supreme Court decrees, and federal trust responsibility to Tribes. The recovery programs' actions provide ESA compliance for more than 2,500 federal, Tribal, and non-federal water projects which deliver more than 3.69 million acre-feet of water for agricultural, industrial, Tribal, and municipal uses. The recovery programs facilitate delivery from Flaming Gorge, Navajo, and Aspinall Unit reservoirs of the Colorado River Storage Project (CRSP) which collectively have more than 6.6 million acre-feet of storage capacity, as well as depletions of a few acre-feet or less by small, individual, projects in the four Upper Basin states of Colorado, New Mexico, Utah, and Wyoming.

When the recovery programs were initiated in 1988 and 1992, the U.S. Fish and Wildlife Service indicated that the trajectory of all four listed species was toward extinction. The implementation of these recovery programs has not only prevented extinctions, but substantially improved the prospect for recovering the listed fish while simultaneously providing timely implementation of water delivery and hydropower projects. The recovery programs have contributed to the downlisting of the humpback chub from endangered to threatened in 2021. The razorback sucker is being recommended for downlisting based on reestablishment of adult populations across the Colorado River basin and increasing signs of natural recruitment.

Participants in the recovery programs include the Upper Basin states; federal agencies, including the Bureau of Reclamation, Fish and Wildlife Service, Western Area Power Administration, National Park Service, Bureau of Land Management, and Bureau of Indian Affairs; American Indian Tribes including the Navajo Nation, Jicarilla Apache Nation, Southern Ute Tribe, and Ute Mountain Ute Tribe; water users; power users; and environmental organizations.

Similar to other recovery and conservation programs outside of the Upper Colorado River Basin which have cost-share between Federal and non-Federal sources, these two recovery programs have historically been supported from a variety of funding sources, including cash and in-kind contributions by states, water users, and power customers, as well as hydropower revenues and federal appropriations. Shared contributions from program participants are essential for the continued success of the recovery programs.

Recovery program activities are implemented through a combination of annual base funding and capital project expenditures. Annual base funding supports recurring expenses for staff time, facility operations and maintenance, field activities, monitoring and data collection, data analysis and management, public outreach, committee meetings, and general administrative support. Capital funding supports major infrastructure improvements implemented at reservoirs, canals, diversion dams, and floodplains across the basin.

Reclamation supports this bill and urges extended re-authorization of P.L. 106-392 as the continued recovery of endangered and threatened species is essential to Reclamation's mission. The continued success of the recovery programs to ensure the recovery of threatened and endangered fish will provide certainty and allow for continued operation and future water development in the Upper Colorado River Basin.

Submissions for the Record by Rep. Grijalva

OCEANA

August 4, 2023

Hon. Cliff Bentz, Chairman
Hon. Jared Huffman, Ranking Member
House Natural Resources Committee
Subcommittee on Water, Wildlife and Fisheries
Washington, DC 20515

Re: SHARKED Act—July 27, 2023 Subcommittee on Water, Wildlife and Fisheries Legislative Hearing

Dear Chair Bentz and Ranking Member Huffman:

On behalf of Oceana and its 1.2 million members and supporters in the United States we write to provide feedback and concerns about H.R. 4051, Supporting the Health of Aquatic systems through Research, Knowledge, and Enhanced Dialogue Act (SHARKED Act) which focuses on potentially problematic solutions to "depredation," the phenomenon of sharks eating fish previously hooked by commercial and recreational fishermen. Shark conservation and modern management has been a priority of Oceana's for many years. As written, Oceana cannot support this bill. Instead of the SHARKED Act, we recommend that this subcommittee focus on the variety of much-needed improvements to the way that America's shark populations are managed and providing adequate resources to the National Oceanic and Atmospheric Administration (NOAA) to better understand and manage America's shark populations.

Modern, science-based fishery management under the Magnuson-Stevens Act (MSA) works, if administered responsibly and effectively. Dozens of fish species around the country have benefited from the requirements of the Magnuson-Stevens Act. However, sharks have largely been ignored by the fishery management process and the outcomes on the water show this. More than half of all U.S. shark stocks lack the fundamental information to support proper management according to the most recent Status of the Stocks report from the National Marine Fisheries Service, the relevant agency within the National Oceanic & Atmospheric Administration (NOAA) ("Fisheries Service or "NOAA Fisheries"). Many more are mismanaged through crude tools like stock complexes that group shark species arbitrarily and not based on common biological attributes.

The SHARKED Act has two major proposals. First it will create a duplicative "Task Force" to explore the issue of shark depredation; develop ways to improve coordination and communication and education to "address" shark depredation; and identify research priorities and funding opportunities. Most alarmingly, the bill charges the Task Force to "develop recommended management strategies to address shark depredation" without any reference to current fishery law.

Second the SHARKED Act will amend the Magnuson-Stevens Act to expand the list of existing Cooperative Research and Management Programs to include "projects to better understand shark depredation, including identifying what causes increases in shark depredation and determining how to best address shark depredation." Improving U.S. shark management is needed but the SHARKED Act, as proposed, will do little, if anything to solve these problems facing sharks. In fact, it may make things worse. Instead of supporting a niche bill designed to respond to a perceived problem, Congress should be working on improving U.S. shark management and on-the-water outcomes for these imperiled species, including better management of "depredation."

As introduced, the SHARKED Act is unnecessary and duplicative of existing programs, requirements and authorities in federal fisheries management. The SHARKED Act will take limited funds and resources away from existing, under-resourced fishery science and management programs around the country. And the SHARKED Act could also allow unproven management strategies to take hold instead of science-based management that has been the heart of MSA management for decades. In the words of one witness and charter captain in last week's House Natural Resources Subcommittee on Water, Wildlife and Fisheries hearing, this bill

may open the door to "reducing the population of sharks in a sustainable way."[1] This witness was likely referring to one of the provisions of the SHARKED Act, which requires the Task Force to identify research and funding opportunities for using "non-lethal deterrents" and other management strategies that may be harmful to shark populations without reference to the requirements of the Magnuson-Stevens Act.

Instead of pursuing the SHARKED Act, Congress should first seek to improve shark management in the U.S. and ensure robust funding for shark science and management. Other legislative efforts should prioritize the threats to global shark populations, the role of the U.S. in shark management and how effective modern management can help restore and protect these key parts of the ocean ecosystem. The Magnuson-Stevens Act provides powerful tools for the U.S. to use science-based fisheries management including requirements to set meaningful catch limits (including for bycatch) and establish safeguards along these lines. If fully implemented and funded, modern shark management can restore our shark populations and help respond to a variety issues, even including depredation. However, because of mismanagement and excessive exceptions and exemptions, many shark stocks are in trouble.

Congress should seek to ensure U.S. shark science and management are fully supported—rather than detracting from important fishery science and management priorities. In order to improve our shark populations and the management responses available for issues like depredation, we must ensure that there are updated, high-quality stock assessments and robust mechanisms to administer fishery management regulations. With respect to depredation specifically, NOAA Fisheries has clearly stated that more can be done to address depredation *if provided with resources to do this*.[2] Congress should follow through and allow the Fisheries Service to build on the work it started in the 2022 depredation report.

We have fought too hard for too many decades to restore shark populations and end harmful shark fishing practices, and the work is far from done. Sharks are integral to healthy ecosystems because they keep prey species populations in check. Sharks also bring scuba divers, snorkelers, and others out to our waters, hoping for a chance to witness them. In Florida alone, sharks add around $350 million in economic impact per year.

On behalf of our supporters, we are concerned by the SHARKED Act's wasteful directives and potential to harm other fishery science and management priorities. For these reasons, we urge Chairman Bentz and Ranking Member Huffman to reject this bill in favor of a comprehensive shark management and funding strategy. This broader approach will improve the science, management, and outcomes for these species rather than focusing on niche, unproven approaches that will improve management and management outcomes for all sharks, including depredation issues with other fisheries.

Oceana does not support the SHARKED Act and we appreciate the opportunity to comment and urge you to consider our perspective in this conversation.

Sincerely,

GIB BROGAN,
Campaign Director, U.S. Fisheries

ATTACHMENT

The SHARKED Act is Duplicative of Existing Programs

In many ways, both major priorities of the SHARKED Act are duplicative of existing programs and authorities in U.S. shark management. The Fisheries Service has career staff exploring the issues raised in the SHARKED Act and has already produced useful results from their work. It is important to note that as recently as 2022 the Fisheries Service produced a report at the direction of Congress entitled "Interactions between bottlenose dolphins and sharks in commercial, for-hire, and

[1] Oral Testimony of Mr. Jack Graham, Captain Afishianado Charters on H.R. 4051 available at https://naturalresources.house.gov/calendar/eventsingle.aspx?EventID=414642 (Last accessed July 31, 2023 at 3:07:50).

[2] NOAA Report to Congress, 2022. *Interactions between bottlenose dolphins and sharks in commercial, for-hire, and private recreational fisheries in the Gulf of Mexico and South Atlantic. NOAA Report to Congress, 2022*. (https://media.fisheries.noaa.gov/2022-08/NMFS-Assessment-Fishing-Interference-RTC-08_29_22.pdf)

private recreational fisheries in the Gulf of Mexico and South Atlantic[3]" that explored the interactions between both bottlenose dolphins and sharks and fisheries in the Gulf of Mexico and South Atlantic that "quantified the degree to which dolphins and sharks interfere with commercial, charter, and recreational fishing and recommends non-lethal methods to deter dolphins and sharks.[4]"

This report concluded: "the nature, extent, frequency, and geographic locations of dolphin- and shark-fishery interactions are not fully understood." Further, "(m)ore data would be needed to improve our ability to quantify dolphin and shark interactions with fisheries. These data could be collected if additional resources were available to augment and analyze existing datasets."

The report then went on to advise on the status of various management tools, including those specified in the SHARKED Act and to reiterate that "an enhanced, thoughtful, and collaborative approach is needed to manage the complex nature of fishery interactions with dolphins and sharks, in coordination with numerous stakeholders, including state natural resource agencies, commercial and recreational fishers, researchers and academics, and others." The Fisheries Service ends with a commitment to pursuing this issue to "the fullest extent our resources allow.[5]"

Finally, the Fisheries Service notes "we hope to identify best practices that will help fishermen to avoid unwanted interactions with sharks."

The SHARKED Act will take funding from other fishery research priorities

A robust cooperative fishery research program supports fishery science and management around the country by partnering scientists with members of the commercial, recreational and for-hire fisheries. These programs are guided by existing policy and guidelines including clear language in the Magnuson-Stevens Act that spells out that cooperative research "should address needs identified under this Act and under any other marine resource laws enforced by the Secretary," and that funding should be "part of a coherent program of research focused on solving priority issues identified by the Councils" giving priority to the following projects:

- Projects to collect data to improve, supplement, or enhance stock assessments, including the use of fishing vessels or acoustic or other marine technology.
- Projects to assess the amount and type of bycatch or post-release mortality occurring in a fishery.
- Conservation engineering projects designed to reduce bycatch, including avoidance of post-release mortality, reduction of bycatch in high seas fisheries, and transfer of such fishing technologies to other nations.
- Projects for the identification of habitat areas of particular concern and for habitat conservation.
- Projects designed to collect and compile economic and social data.[6]

The existing cooperative research program supports many worthy fishery research projects in fisheries from New England to the Western Pacific. Adding a narrowly specific priority for depredation studies will likely alter funding streams across the country with unknown effects. It is important to note that research on shark depredation is currently provided for and the agency notes "NOAA Fisheries has funded several cooperative research studies in the Atlantic and Gulf of Mexico aimed at characterizing and reducing the extent of shark depredation in the region . . . collecting genetic data to identify which shark species are mostly commonly responsible for depredation events and surveying fishermen about their depredation experiences."

Because of the recent finding of the Fisheries Service report and the current research being conducted under MSA, both of the primary sections of the SHARKED Act are already in progress. U.S. shark management does not need this legislation to recreate the wheel that is already rolling at the Fisheries Service. Instead, Congress should focus on improving shark management in U.S. fisheries and fully

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[3] NOAA Report to Congress, 2022. *Interactions between bottlenose dolphins and sharks in commercial, for-hire, and private recreational fisheries in the Gulf of Mexico and South Atlantic. NOAA Report to Congress, 2022*. (https://media.fisheries.noaa.gov/2022-08/NMFS-Assessment-Fishing-Interference-RTC-08_29_22.pdf)

[4] NOAA Website, *Debunking Common Shark Myths*, https://www.fisheries.noaa.gov/feature-story/debunking-common-shark-myths

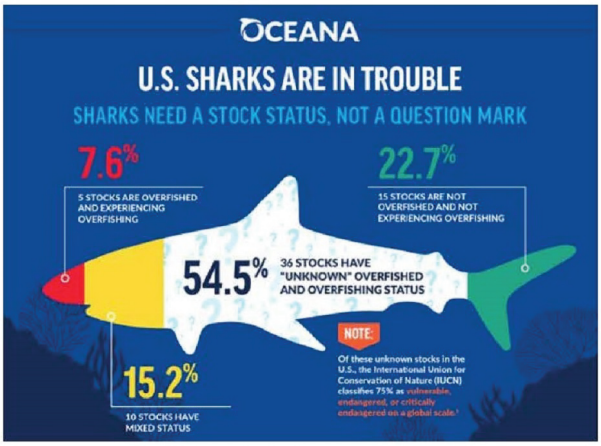
[5] NOAA Report to Congress, 2022. *Interactions between bottlenose dolphins and sharks in commercial, for-hire, and private recreational fisheries in the Gulf of Mexico and South Atlantic. NOAA Report to Congress, 2022*. (https://media.fisheries.noaa.gov/2022-08/NMFS-Assessment-Fishing-Interference-RTC-08_29_22.pdf) Executive summary page 6.

[6] Magnuson-Stevens Act Section 318(c).

funding shark science and management through the appropriations process with new funding for depredation research, management and outreach.

The SHARKED Act will not improve failing shark management in the U.S.

U.S. management of shark populations is failing. As a group, sharks grow slowly, mature late, and then produce relatively few young. As a result, they are sensitive to overexploitation, as we have seen over the years, with global oceanic shark and ray abundance decreasing by more than 70 percent since 1970. To make things worse in the U.S., managers don't know the status of more than 54% of the 66 shark stocks under federal management and only 23% of U.S. shark stocks are healthy (not overfished or experiencing overfishing). The below graphic is from the 2021 Status of Stocks, but the data has not changed in the new assessment.



(Source https://usa.oceana.org/wp-content/uploads/sites/4/Oceana-SharkFacts-9-2-Final.pdf)

Instead of the shortsighted SHARKED Act, Congress should prioritize improving management of shark stocks and fully funding the Fisheries Service's shark assessment and research efforts instead of the wide latitude and duplicative effort offered in SHARKED Act.

NATIONAL AUDUBON SOCIETY
Salt Lake City, UT

July 26, 2023

Hon. Mike Lee
U.S. Senate
Russell Senate Office Bldg
Washington, DC 20510

Hon. Mitt Romney
U.S. Senate
Russell Senate Office Bldg
Washington, DC 20510

Hon. John Curtis
U.S. House of Representatives
Rayburn House Office Bldg
Washington, DC 20515

Hon. Chris Stewart
U.S. House of Representatives
Cannon House Office Bldg
Washington, DC 20515

Hon. Burgess Owens
U.S. House of Representatives
Cannon House Office Bldg
Washington, DC 20515

Hon. Blake Moore
U.S. House of Representatives
Longworth House Office Bldg
Washington, DC 20515

Re: Audubon Support for the Great Salt Lake Stewardship Act (H.R. 4094, S. 1955)

Dear Utah Congressional Delegation:

On behalf of National Audubon Society (Audubon), I write to express support for the Great Salt Lake Stewardship Act. Audubon and its Saline Lakes Program, as part of our Western Water Initiative, works to advance balanced solutions for water use to ensure that birds, ecosystems, people, and economies that rely on water resources can thrive.

For more than 25 years, Audubon has been working to protect Great Salt Lake, including managing the Gillmor Sanctuary on the Shore of Great Salt Lake to provide wetland habitat for shorebirds and other waterbirds.

Great Salt Lake and other saline lake ecosystems are faced with serious challenges resulting from decreased inflows and diversions, drought, and the impacts of a changing climate. The devastating implications of drying lakes on people, businesses and the environment throughout the world is well known.

Increasing water conservation efforts and reducing water consumption is particularly essential to preserve Great Salt Lake and its surrounding wetlands habitats. Thus, many of our efforts in Utah support frameworks and tools to help communities and businesses conserve and balance demand for the state's limited water supplies.

The Great Salt Lake Stewardship Act provides an important means to aid the State of Utah and its residents in their continuing efforts to stretch limited water supplies through the Central Utah Project Completion Act's purpose of promoting water conservation projects in the Great Salt Lake basin, which could in turn benefit the lake and surrounding communities.

We greatly appreciate the support of the entire Utah Congressional Delegation in introducing and advancing the Great Salt Lake Stewardship Act.

Sincerely,

MARCELLE SHOOP,
Director, Saline Lakes Program

August 2, 2023

Hon. Cliff Bentz, Chairman
Hon. Jared Huffman, Ranking Member
House Natural Resources Committee
Subcommittee on Water, Wildlife and Fisheries
Washington, DC 20515

Re: National and Regional Organizations Support the Bipartisan New York-New Jersey Watershed Protection Act (H.R. 2982/S. 1335)

Dear Chairman Bentz and Ranking Member Huffman:

As representatives of organizations nationwide as well as in New York and New Jersey, we support H.R. 2982/S. 1335, the New York-New Jersey Watershed Protection Act (NYNJWPA). This year provides a historic opportunity to authorize the NYNJWPA and ensure that communities across the New York-New Jersey region have the opportunity to collaborate with the federal government to advance local watershed management that many other regions have benefited from for decades.

Along with supplying clean water to some 15 million Americans living in one of the country's most densely populated and economically diverse regions, the harbor and its watersheds—including the Hudson, Mohawk, Raritan, Passaic, Hackensack, and Bronx rivers—host some of the busiest U.S. ports, provide opportunities for tourism and outdoor recreation that attract people from around the world and improve public health, sustain significant fisheries and critical wildlife habitat, and protect businesses and vital infrastructure from flooding and other storm-related damages. Additionally, the NYNJWPA will provide critical support for rural communities across the region by providing funding to support local public access and wildlife management plans. The conservation of this watershed is especially critical as the home to millions of Americans and significant economic activity; in addition to ensuring a healthy and resilient ecosystem, and promoting jobs for the family-owned businesses equipped to do habitat restoration work, it is critical to secure and improve public access for outdoor recreationists including sportsmen and women.

The NYNJWPA offers a once-in-a-generation opportunity to secure a coordinated, watershed-wide program built upon decades of efforts to restore some of the nation's most impaired and degraded waters. Federal partnerships in the watersheds of Chesapeake Bay, Delaware River, Long Island Sound, Lake Champlain, the Great Lakes, and others have successfully demonstrated how such a program can deliver direct benefits to the environment, local communities, and state economies. Notably, the grant program authorized by this legislation will match local funds and leverage additional resources to assist communities lacking in environmental justice, as well as the small, rural communities that are critical to the economic and environmental well-being of the watershed.

These waterways play a critical role in enhancing Americans' quality of life, health, and prosperity, and in restoring communities disproportionately challenged by climate change. Local partnerships are strong and regional priorities have been established through dozens of science-based, consensus-driven plans to manage these natural resources and protect fish and wildlife habitats, improve water quality, increase public access to the water, mitigate flood risks, and develop public outreach and educational activities. In addition to helping to implement these locally approved plans, federal leadership, coordination, and resources will amplify their impacts by promoting collaboration that will ensure on-the-ground public benefits span the entire region.

The New York-New Jersey Watershed Protection Act is essential to the recovery of the region's water, economic well-being, wildlife, and communities. We strongly support the passage of this legislation and urge Senators and Representatives to move this legislation forward during the 118th Congress.

Sincerely,

Scenic Hudson

Riverkeeper

Boone and Crockett Club

Engineers Labor-Employer Cooperative Local 825

Hudson River Sloop Clearwater

Mississippi River Trust

NJ Chapter of Backcountry Hunters & Anglers

NY Chapter of Backcountry Hunters & Anglers

NY-NJ Baykeeper

Nature Conservancy of New York

Nature Conservancy of New Jersey

PREPARED STATEMENT OF THE HON. PAUL TONKO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

ON H.R. 2982, THE NEW YORK-NEW JERSEY WATERSHED PROTECTION ACT

Thank you, Chairman Bentz and Ranking Member Huffman, for the opportunity to address the Subcommittee and for including my bill, H.R. 2982, the New York-New Jersey Watershed Protection Act, in today's hearing.

I am proud to represent New York's Capital Region, a community and economy that is inextricably linked to the historic Hudson and Mohawk Rivers that flow nearby. These waters, along with the Raritan River and their tributaries, make up the nation's most populous watershed. Our water resources serve as sources of drinking water for millions of people, provide habitats for more than 200 fish species, and support critical outdoor recreation and tourism industries.

Like water resources all across the country, our waterways have, for decades, faced severe challenges that threaten public health and safety. The Hudson River is the nation's largest Superfund site. Hazardous waste and legacy chemicals remain unacceptably high, threatening the health and safety of ecosystems, wildlife, and human health throughout the entire Watershed. The metropolitan area includes more than 500 miles of coastline, yet only a scant few of those miles are available for outdoor recreation, and even fewer in communities experiencing environmental injustice.

Record rainfall over this past month has caused catastrophic flooding across New York, endangering families and communities and causing significant infrastructure damage, closed roadways, and delayed travel. Extreme weather events and the impacts of sea-level rise like increasing storm surges and flood risks are only being exacerbated by the climate crisis.

We must take pause and re-evaluate our connection and responsibility to the waters of our region.

Local watershed stewardship—by coordinated groups of community leaders, scientists, outdoor recreationists, and others—is so important to restoring the health and resilience of our water resources, and the communities and economies that rely on them. Across the nation, there is a network of effective regional watershed programs—for example, in Delaware, the Great Lakes, and the Chesapeake Bay—that create a targeted role for the federal government in coordinating and boosting local conservation efforts.

The New York-New Jersey Watershed Protection Act would fill a gap in our nation's regional watershed programs by extending this existing model to the Hudson, Mohawk, and Raritan Rivers and their tributaries.

I am proud to have reintroduced this legislation in the 118th Congress with 20 bipartisan co-sponsors and more than 50 local and national stakeholder groups. The bill would establish the New York-New Jersey Watershed Restoration Program and Grant Program to coordinate restoration efforts across the region, build local capacity, and implement local restoration plans that communities have already found consensus on. The program would ensure that restoration efforts utilize science-based principles to protect fish and wildlife habitats, improve water quality, increase public access, mitigate flood risks.

I greatly appreciated the engagement from my colleagues across the aisle in the 117th Congress that resulted in new additions and changes to the bill before it advanced out of Committee and was passed by the House, and I am prepared and eager to work with you to continue that process in the 118th Congress.

The New York-New Jersey Watershed is an economic engine not just for our local communities, but for the nation, and federal investment is long overdue to ensure that these water resources can continue to boost economic opportunity, tourism, and outdoor recreation, while protecting public health and access to clean water.