

**Testimony of Mr. Dan Hull, Chairman  
North Pacific Fishery Management Council**

**Before the  
U.S. Senate Commerce Committee's Subcommittee on Oceans, Atmosphere,  
Fisheries & Coast Guard**

**“Reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act:  
Oversight of Fisheries Management Successes and Challenges”**

August 23, 2017

Good afternoon Chairman Sullivan, ranking member Peters, and members of the Committee. Thank you for the opportunity to testify on reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act, or MSA). My name is Dan Hull, and I am the Chairman of the North Pacific Fishery Management Council. I have served as one of Alaska's representatives on the Council for eight years and as Chairman for the last three, and I am honored to participate in this hearing and offer our perspectives on reauthorization.

Because the North Pacific Council has not met in session since receiving the invitation to testify and to provide suggestions for improving the MSA, my comments are confined primarily to previous discussions we've had about issues raised in current and prior draft legislation. My comments also include examples that highlight important elements of the MSA and illustrate the success of the law in the North Pacific as written. As this subcommittee and Congress work to reauthorize the law and request further review and comment from us, we stand ready to share our perspectives independently and in concert with the other Regional Fishery Management Councils to improve and strengthen the MSA.

### **Fisheries in the North Pacific**

The North Pacific Fishery Management Council, through its partnerships with NOAA Fisheries (NMFS) and other agencies, develops regulations for groundfish in the Gulf of Alaska, Bering Sea, and Aleutian Islands. Groundfish include cod, pollock, flatfish, Atka mackerel, sablefish, and rockfish species harvested by trawl, longline, jig, and pot gear. The Council also makes domestic allocation decisions and establishes domestic management programs for halibut, as part of our coordinated management of the halibut resource with the International Pacific Halibut Commission, which sets directed fishery catch limits and season dates, and manages biological aspects of the resource for U.S.-Canada waters. Other large Alaska fisheries such as salmon, crab, scallops and herring are managed jointly with the State of Alaska.

Fisheries are extremely important to the economies, coastal communities and cultures in Alaska and the Pacific Northwest. More than 50% of the seafood harvested in the United States comes from Alaska. The fisheries provide tens of thousands of jobs for commercial fishermen, processing workers, sport fishing guides, gear suppliers and other support industries. There are over 1,500 vessels fishing commercially in the federally managed groundfish fisheries, hundreds of other vessels participating in State managed commercial fisheries, another 1,000 or so charter vessels participating in the halibut sport fishery, and a large number of privately owned boats that participate in recreational fisheries for halibut, groundfish, and salmon. The commercial fisheries annually catch is about 3 million metric tons of fish off Alaska, which generates approximately \$2 billion in ex-vessel revenue (the amount paid to fishermen at delivery, prior to value added processing). The groundfish fisheries account for a majority of the catch and value, but the halibut, salmon and crab fisheries also contribute substantially.

The Council recognizes that its management of marine resources in the North Pacific is also critical to subsistence uses of fish, shellfish and marine mammals throughout Alaska's coastal communities, whether directly or indirectly.

We have developed a very successful fisheries management program in the North Pacific, resulting in profitable and sustainable fisheries. For the past 40 years, annual groundfish catches have ranged from 3 to 5 billion pounds, with no stocks overfished or undergoing overfishing. There is no question that sustainable, science based conservation and management of the living marine resources in the North Pacific is critically important to the economies and communities in our region.

### **Views on MSA Reauthorization**

The North Pacific Council believes that the current MSA already provides a very successful framework for sustainable fisheries management, and major changes are not necessary at this time. Nevertheless, we also recognize the potential benefits of increased flexibility in some circumstances, and amending the Act to provide for such flexibility could provide all the regional councils additional opportunities to optimize their fishery management programs, with appropriate cautionary notes. In short, any changes to the law providing additional flexibility must continue to ensure that fundamental conservation and management tenets are upheld, and should not create incentives or justifications to overlook them.

We agree with and support the Council Coordinating Committee's consensus positions on issues, which were detailed in the testimony provided by John Quinn at the hearing earlier this month. As your subcommittee and Congress works to reauthorize the MSA, we encourage you to take advantage of the collective wisdom of the Council Coordination Committee, as well as individual Councils, to assess how best to navigate challenging issues. We believe that the CCC is well positioned to review and understand regional differences and complexities in management, and if requested, offer guidance as well potential solutions to new challenges and proposed changes to the MSA. The following are the North Pacific Council's views and comments on some specific issues and provisions raised in various proposed amendments to the MSA, and in separate discussions with NMFS.

### Modifications to the ACL requirement

Regarding annual catch limits (ACLs), ACLs have been used in the North Pacific for the past 40 years, and we believe that such limits are a cornerstone of sustainable fisheries management. We also believe there are situations where some flexibility in the establishment of ACLs is warranted, particularly in the case of data poor stocks. Consideration of the economic needs of fishing communities is critical in the ACL setting process, and while the current MSA allows for such consideration, we recognize the desire for a more explicit allowance for these considerations. We must be careful however, not to jeopardize long term fisheries sustainability, and associated community vitality and resiliency, for the sake of short term preservation of all economic activity associated with a fishery. Accounting for uncertainty, articulating policies for acceptable risk, and establishing the necessary precautionary buffers, are all explicit outcomes of the ACL process, and we believe that the Councils' Scientific and Statistical Committees (SSCs) are the appropriate gatekeepers to establish the upper limits of 'safe' fishing mortality, which we believe to be at the Acceptable Biological Catch level. We also believe that authorization for multi-species stock complexes and multiyear ACLs, as well as the provisions regarding ecosystem component species, will also provide the Councils greater flexibility to apply ACLs consistent with other aspects of management for a given species.

Alternative management measures for recreational fisheries (or other fisheries, such as subsistence) such as extraction rates, mortality targets, and harvest control rules could provide additional tools and flexibility to fisheries managers in all U.S. regions. It is unclear, however, whether such alternative measures are intended to be *in lieu of* ACL requirements, or in some other context. This is one example where maintaining accountability to scientific principles is appropriate, and I believe the CCC's comments to this Subcommittee reflect this, stating "ideally such exceptions would be codified in the MSA along with guidance regarding applicable circumstances in National Standard guidelines".

### Stock Assessment Science

Stock assessments provide the fundamental information necessary to successfully manage sustainable fisheries. As such, the Council believes the requirements for the Secretary to develop plans and schedules for stock assessment will enhance fisheries management nationally. However, we have some serious concerns with the provision to incorporate information from a wide variety of non-governmental sources, and potentially require that information to be considered 'best information available'. In the North Pacific Council the public has opportunity to provide input into the science and scientific peer review of all issues through testimony and discussions at the SSC and Plan Team meetings, and these bodies regularly hear the views of stakeholder groups, oftentimes in detailed data-based presentations. And we are working to incorporate traditional knowledge into our understanding of the ecosystem. We are concerned that complying with this provision will increase burdens on our staff and our Scientific and Statistical Committee, and invite potential litigation. This makes it especially difficult for the Council to fulfill its responsibilities under MSA. The implementing guidelines for when such information would be utilized will be critical to its veracity and usefulness to managers.

## Rebuilding Plans

Regarding potential changes and increased flexibility for stock rebuilding plans, our Council believes that further flexibility, particularly in cases where the 10-year rule does not make sense due to the particular aspects of the stock in question, would appropriately increase the ability to maximize harvest opportunities while still effecting rebuilding of fish stocks. In some cases, the somewhat arbitrary 10-year requirement can result in overly restrictive management measures, with unnecessary, negative economic impacts, with little or no conservation gain. Allowing for rebuilding to occur in as short a time as “practicable”, as opposed to as short a time as “possible”, appears to be an appropriate mechanism for additional flexibility. The use of alternative rebuilding strategies such as harvest control rules and fishing mortality targets is consistent with this increased flexibility. Finally, allowing the Councils’ SSCs to determine whether a rebuilding plan is no longer necessary seems an appropriate role for the SSCs.

## Distinguishing between overfished and depleted

When a fish stock abundance drops below a certain threshold, it is deemed ‘overfished’, regardless of whether or not fishing caused the change in abundance. In the North Pacific the example of Pribilof Island Blue King Crab, a fishery for which there has been no allowable fishing for decades, and a species which is only occasionally taken as bycatch in other fisheries, highlights the need to differentiate stocks for which an “overfished” status has no relation to fishing activities. Replacing the term “overfished” with the term “depleted” may be an effective way to address this problem. Additionally, legislation should consider exempting depleted fisheries from development of a rebuilding plan in cases where fishery management actions would not effect, or substantially affect, stock rebuilding.

## Transparency

All decisions made by the Council and its advisory bodies are done through a transparent, open public process. Meeting materials, agenda and schedule, and public comment letters are all posted in advance of the meeting on a ‘live agenda’ on the Council website. During the meeting, this ‘live agenda’ is continuously updated with minutes that are drafted by the SSC, AP and Committees, motions on which the Council has acted, and new material that is pertinent to the agenda items.

Regarding the requirements to provide website access to audio, video, or written transcripts of all Council and SSC meetings, this is already provided for meetings of the Council, including live webcast (to the extent possible) and full searchable audio transcripts. While SSC meetings are not live webcast or recorded, they are open to all the public and very detailed meeting minutes are developed and are accessible on our website. Requiring live webcast or full audio transcriptions of SSC meetings would impose added costs to the Council, with both monetary and personnel commitments, with minimal benefit to the public. Additionally, our Council meetings are sometimes held in remote Alaska coastal communities that may have less than ideal internet connectivity necessary for audio (or video) webcasting. The Council agrees with the Council Coordinating Committee recommendation to require the use of webcasts “to the extent practicable” will achieve greater transparency within budget and operational constraints.

In addition to openness and transparency, it is worth noting the evolution of representation on the North Pacific Council and its subsidiary bodies over time. As new challenges arise, management programs become more complex and intertwined, and stakeholder interests broaden, the composition of the North Pacific Council and its subsidiary bodies has arguably become more representative of the diverse commercial, subsistence and recreational fisheries, communities, environmental and other stakeholder interests than in the past.

### NEPA Compliance

Incorporating the National Environmental Protection Act (NEPA) requirements into the Magnuson-Stevens Act, and realizing a single guiding statute for fishery management actions, is consistent with long-standing intent of the Council and the Council Coordinating Committee generally. However, we are concerned that the ultimate result will be contingent upon implementing regulations, and the realized benefit could be marginal relative to creation of new complexities and challenges. These new complexities and challenges include the development of potentially complex and contentious regulations, and creation of a new body of litigation relative to fishery management actions. Our specific concerns are as follows:

- Proposed new requirements would not alter the current breadth and scope of environmental, economic, and social impact analysis requirements, so we would not anticipate any decrease in the overall resources necessary to satisfy the new requirements.
- Councils, subject to approval by the Secretary, would be required to “prepare procedures” to comply with the new fishery impact statement requirements – as with many recent MSA amendments, this means development of potentially complex, controversial, interpretive regulations, or at least ‘guidelines’, which would in essence be subject to approval by NMFS and NOAA GC.
- Presently the onus for completion of NEPA requirements technically lies with NMFS (even though our current process attempts to incorporate most of that within the Council process). Under a revised process all of the onus for compliance with the new provisions will lie with the Councils under the MSA process, except for NMFS’ final review and approval authority. Shifting this responsibility could require substantial realignment of resources.
- We have become quite proficient at the NEPA process (albeit cumbersome), and we have an established track record with regard to litigation of fisheries actions under NEPA. While this section could streamline the process in the longer term, it could also create grounds for a new body of litigation and case law on fisheries management actions, based on an as-yet-unwritten set of implementing regulations, and/or attempting to extend previous NEPA case law to the new MSA process.
- To the extent Councils are experiencing timing/delay issues between the time of final Council action and actual transmittal of the package for Secretarial review, incorporating NEPA requirements into the MSA will not directly address or rectify that problem; i.e., the

determination of ‘adequacy’ of the amendment package for transmittal will still be determined by the agency.

### Catch Share Programs

The North Pacific Council has several catch share programs. Programs for some fisheries were mandated by Congress (American Fisheries Act pollock cooperatives, BSAI Crab fisheries cooperatives) and others were developed and implemented by the Council (Halibut and Sablefish IFQ program, Gulf of Alaska Rockfish Cooperative Program, BSAI Amendment 80 groundfish trawl cooperative program). These programs were aimed at eliminating the race for fish and minimizing the associated negative impacts to fisheries resources, as well as to the social and economic well-being of the industry and fishing communities. The objectives originally established for all catch share and IFQ programs are largely being met (reduced bycatch and waste, extended the fishing seasons, increased efficiency, increased utilization, improved safety at sea, etc.).

Full program performance reviews for all catch share and IFQ programs are conducted on a regular periodic basis (every 7 years). The Council also annually reviews the performance of the cooperatives, and considers adjustments to the programs as needed to better meet program objectives. As these catch share programs mature and the original social and economic contexts change, these full performance reviews and annual cooperative reports provide the Council with the assessments needed to address new problems and challenges that may not have been initially anticipated, as well as improve our understanding of how additional catch share programs might be structured. This continues to be an area of ongoing work by the Council.

### Exempted Fishing Permits

The North Pacific fisheries management program has greatly benefited from the use of exempted fishing permits (EFPs), including multi-year EFPs, to test (under field conditions) solutions to management problems. In recent years, for example, fishermen have successfully tested different trawl gear configurations to allow escapement of salmon in the pollock fishery, tested and quantified reductions in mortality of halibut sorted on deck and discarded alive from vessels trawling for flatfish, and tested the efficiency and effectiveness of different electronic monitoring devices on longline vessels. Each EFP proposal undergoes scientific peer review by the Alaska Fisheries Science Center and the Council’s SSC to ensure that it is scientifically sound, and each proposal is also evaluated by the Council prior to approval by NMFS. A multi-year EFP allows testing across seasons to evaluate inter- and intra-annual impacts. A NEPA Categorical Exclusion may be issued in cases where no additional catches are requested. The Council is concerned that language requiring EFP applications to provide information on the economic effects of the EFP “in dollars” and in terms of lost fishing opportunities for all sectors would elevate the analysis to a full Environmental Analysis just to examine the effects on all sectors. This would greatly reduce the industry’s ability to get EFPs developed and approved in a timely manner. The Council also believes that multi-year EFPs can be critical to testing some solutions to fishery management problems.

The current EFP process is working well for the Council, with a minimum of paperwork and process requirements, and the Council does not see a need for changes or new requirements. If there are problems with the current EFP process in particular regions of the country, then proposed legislation should be applicable only to those regions.

In addition, it is worth noting significant voluntary efforts by the fishing industry to improve management outside the formal EFP process. These include efforts by the fixed gear pot fleet to conduct EM pilot projects; projects by the GOA trawl fleet and shore-side processors to account for incidentally caught Chinook salmon for sampling by NMFS/AFSC to improve stock of origin data collection and analysis; and halibut bycatch reduction efforts by the Amendment 80 trawl cooperatives to increase harvest levels by the directed longline fleets in the BSAI.

## **Alaska-Specific Issues**

### North Pacific Management Clarification

MSA Section 306(a)(3)(C) contains provisions related to State jurisdiction to manage fishing activity in the absence of a federal fishery management plan. Removal of the August 1, 1996 date in this paragraph would ensure that the delegation of salmon in EEZ to the State of Alaska would include vessels not registered with the State of Alaska. The Council strongly believes this change, thereby allowing regulation of fishing in these areas by the State of Alaska, would better align the Council with its management authorities and responsibilities under MSA and is essential to the responsible and effective management and enforcement of these fisheries.

### Limitation on harvest in North Pacific Pollock Fishery

Proposed legislation in the House (HR 200) would provide allowance for the Council to change the pollock harvest cap as stipulated in the American Fisheries Act (currently 17.5%), but not to exceed 24%. NMFS has raised the issue of whether the Council or NMFS might already have the authority under the American Fisheries Act to revisit the harvest cap. The Council has taken no position on this provision at this time, but may in the future upon a better understanding of the intent, need, and potential impacts of such action.

### Subsistence fishing

The Council believes that providing a definition for subsistence fishing is a proper addition to the MSA to reflect the full range of marine resource uses in the EEZ. Additionally, adding subsistence as an appointment qualification for Council membership is a beneficial clarification to the MSA, with the understanding that it would not require or direct the appointment of a subsistence representative as a Council member.

### Arctic Community Development Quota

Proposed legislation in the House (HR200) would require that if the Council establishes annual catch limits for Arctic fishing, a minimum of 10% Community Development Quota to be available for coastal villages north and east of the Bering Strait. The Council has no opinion on this issue, but notes that it may be useful to the Council if Congress provided more specificity with regard to eligible villages.

### Council member recusal determinations

An area of concern to the North Pacific Council that we bring to your attention, but that has not been discussed in draft legislation to reauthorize MSA, is the process that NOAA General Counsel employs to determine whether Council members have a financial conflict of interest on a particular action and must therefore recuse themselves. We have communicated with NOAA over various aspects of this process in recent years, and have resolved some issues, but question whether the specific interpretations are consistent with the intent of conflict of interest statute and regulations. The current interpretations make it challenging for the Council to fully exercise its collective voice as intended under the MSA.

The MSA was designed to allow people who actively participate in the fisheries to be voting members of regional fishery management councils. To address concerns about members voting to improve their own financial situation, the MSA has long required Council members to disclose financial interests. Prior to 1996, as long as council members disclosed their financial interests, there was no prohibition on voting on any matter. In 1996, Congress added the recusal provision, which required not only disclosure but also that an affected individual not be allowed to vote on council decisions that would have a significant and predictable effect on a member's financial interest. The MSA language left the issues of significant and predictable effect open for interpretation, so NMFS developed a regulation that set a 10% threshold for a significant effect, which is the basis for determining whether a recusal is required. The primary problem is the way in which NOAA General Counsel (NOAA GC) calculates a member's financial interests in determining whether the 10% thresholds are exceeded. The NMFS policy is to attribute all fishing activities of a company -- even partially owned by an associated company -- in calculating an individual Council member's interests. The North Pacific Council believes that this attribution policy is inconsistent with the intent of the conflict of interest statute and regulations.

The following example helps to explain this issue: Joe Councilman works for Fishing Company A, which owns 50% of Fishing Company B, which in turn owns 3% of Fishing Company C. NOAA GC uses ALL harvesting and processing activity by ALL three of these companies in determining whether Joe Councilman exceeds any of the 10% thresholds. The North Pacific Council believes that this is an unfair and illogical interpretation of the recusal regulations, and results in unintended recusals of Council members. The North Pacific Council believes that NOAA GC should use only the amount of harvesting or processing activity equivalent to the Council member's percentage of ownership. Using this proportional share approach, NOAA GC would use 100% of the harvesting and processing activity of Fishing Company A, 50% of the harvesting and processing activity of Fishing Company B, and 1.5% of the harvesting and processing activity of Fishing Company C to determine whether Joe Councilman exceeds any of the thresholds. At our request, NOAA GC revisited the attribution policy, but declined to make changes.



The full attribution policy causes particular problems for the North Pacific council members who represent the Community Development Quota groups because they have been prohibited from voting on many very critically important management issues. The MSA established the CDQ program to allocate up to 10.7% of fish quotas to the groups, with the intent the groups invest broadly in the fishery. These CDQ groups have been very successful over the past 25 years, and have become full or partial owners of many fishing companies, and participate in virtually all of the Bering Sea groundfish, halibut, and crab fisheries and sectors. Hence a CDQ representative is very knowledgeable about the fisheries, so their input and vote is extremely important for a fully effective and participatory fishery management program as envisioned by the MSA. Under the full attribution policy however, all of the various ownership structures are additively applied, resulting in NOAA GC determining that the CDQ representative is recused from voting. The CDQ representative on our Council has been recused far more frequently in the last two years than any other Council member, resulting in what we believe is a frustration of Congressional intent for this program.

We have not decided on a specific fix through MSA to suggest and will continue to review the recusal determination process with NOAA General Counsel.

## Council Resources

We agree wholeheartedly with the CCC's comments regarding the challenges that Councils face to meet important new NMFS policy directives without adequate resources, and CCC concern over adequate funding to continue at-sea surveys and stock assessments. In the North Pacific, the high quality and coverage levels of fishery independent trawl surveys and stock assessments have been essential to achieving sustainable fisheries for so long. The Alaska Fishery Science Center (AFSC) recently alerted the Council that reductions to the Gulf Of Alaska groundfish survey efforts are planned for 2017, and possibly for the Eastern Bering Sea Slope survey in 2018 as a result of budgetary concerns ("Implications of reducing and eliminating AFSC groundfish survey effort in 2017 and 2018", AFSC, April 7, 2017). Reductions in groundfish surveys increase the uncertainty in stock assessment estimates, diminishes the quantity and quality of data needed to track changing environmental conditions in the ocean and the effects on species abundance and distribution, and affects the quality of information in a variety of documents critical to the Council process, such as EA and EIS documents, Biological Opinions and Fishery Ecosystem Plans. For the Council, a very direct consequence is that it becomes harder to achieve Optimum Yield in the fisheries as defined under National Standard 1, during the annual process of setting harvest specifications. It also introduces greater uncertainty and variability from year to year. Greater uncertainty in the estimates of stock abundance typically result in more conservative approaches to management and lower harvest levels to buffer against the potential for error. There is the potential for real and direct economic losses to the fishing fleets and communities associated with survey reductions over time.

## Examples of Management Actions and Programs Relevant to the Success of the MSA

We understand that there are several contentious management issues in other regions that have initiated development of draft legislation to revise MSA. It is our hope that any modifications to the MSA would avoid across the board mandates, designed to address a problem in another region that could negatively affect the successful management program in the North Pacific.

Below is a description of several management programs and actions that illustrate how we have addressed some of these major contentious issues (bycatch, observer monitoring, commercial/sport allocations, and ecosystem-based management) using the existing authorities already provided by the MSA.

### Minimizing Bycatch

The Council has worked diligently to minimize bycatch in the groundfish fisheries. With implementation of catch share programs in the Bering Sea, the percent of catch discarded was reduced from 14% in 1999 to only 3% in 2016. The Council has also made great strides in minimizing the bycatch of halibut and salmon, which are important species taken as subsistence, recreational, and directed commercial fisheries. Halibut bycatch limits for most gear types were recently reduced in the Gulf of Alaska by 15% and in the Bering Sea by 25%. The Council is currently evaluating ways to index the annual bycatch limits in the Bering Sea and Aleutian Islands based on halibut abundance. Chinook salmon bycatch, which primarily occurs in the pollock fishery, has been greatly reduced since the early 2000s. In the Bering Sea and Aleutian Islands, overall limits and performance standards have been established which provides incentives for each pollock fishery cooperative to minimize its salmon bycatch at all levels of salmon abundance. Limits are further reduced when salmon returns are projected to be low, based on an index of 3-rivers in Western Alaska that support critical subsistence and commercial fisheries for rural coastal communities. Individual vessels and Pollock cooperatives are accountable for maintaining low bycatch levels through Incentive Plan Agreements developed in accordance with objectives established by the Council. The pollock fleet works cooperatively to avoid salmon by establishing short term closure areas in hotspot areas, and developing and using pollock excluders in the trawl nets.

Amendment 91 which established the Chinook salmon bycatch management program for the pollock fleet in the BSAI is an excellent example of the successful management that is possible through MSA, when the Council, fishing industry, agencies, and other affected stakeholders work together using sound science in an open and transparent process. While reducing Chinook salmon bycatch is the primary goal and the most visible outcome to the public, it is important to highlight other key elements and factors that make this a successful program. It includes a census and strict monitoring of all salmon taken as bycatch in the Pollock fishery. It includes sampling of those salmon by fisheries observers on the Pollock vessels to conduct a genetic stock identification of the composition of bycatch and thus determine the river drainage of origin. It entails assessments of the impact of that bycatch on Chinook populations and on the subsistence and small commercial fisheries in rural western Alaska communities, for whom Chinook salmon is a corner stone of culture and a source of much needed income in a region of very limited economic opportunities. And it requires detailed annual reporting by the Pollock cooperatives on the performance of the

IPAs and the effectiveness of incentive measures in terms of Chinook avoided as well as the harvest of Pollock. The Pollock industry's willingness to explore an innovative approach that provides some delegation of accountability and responsibility under strict Council and NMFS guidance, and to effectively apply the Experimental Fishing Permit process (EFP) to test salmon excluders in the field is notable. All of this has been possible under the policy framework of MSA and guidance under the ten National Standards. None of this is possible without the cooperative efforts and trust required from diverse interests in the Council process, including scientists, managers, policy makers, the pollock industry and the subsistence and commercial salmon fishermen. And none of this is possible without adequate funding for the science and research and analyses conducted by the many outstanding members of the AFSC, the ADF&G, Council staff, and other partners in our Council process.

### Observer Program

In Alaska, the at-sea observer program is almost entirely funded directly by industry, and for the majority of groundfish fishing activity in Alaska, an observer is onboard the vessel at all times. In 2016, 89% of the total groundfish and halibut catch of almost 2.3 million mt was caught on vessels with an observer onboard. In the Gulf of Alaska, there are vessels that are subject to partial coverage observer requirements to accommodate the challenges of deploying observers on thousands of smaller vessels. In 2013, the Council and NMFS restructured this component of the observer program to address sampling issues associated with non-random observer deployment on some vessels and fisheries, and cost inequality among fishery participants. The scientific sampling plans implemented since 2013 result in better spatial and temporal distribution of observer coverage across all fisheries, greatly improving the quality of data collected in Federal fisheries off Alaska and NMFS' ability to estimate catch and bycatch, and to evaluate and improve catch estimation procedures. The Council, with input from the Observer Advisory Committee, continues to work with the NMFS Observer Program to maintain robust coverage levels for all sectors and gear types at a time when fishing industry revenues and thus observer fee funds collected for the partial coverage fleet have decreased. In addition, Observer Program fees collected from industry have also been subject to annual sequestration, which makes achievement of coverage levels more problematic.

In addition, the Alaska fisheries incorporate extensive electronic reporting, and in some fisheries, electronic monitoring (EM) for compliance. The Council and NMFS have also just recently implemented a groundbreaking amendment to allow use of electronic monitoring as an alternative tool for the fixed gear groundfish and halibut fisheries, in which there are operational and logistical challenges deploying human observers on smaller vessels. In these fisheries, the EM data will be used instead of human observers to collect catch and discard information that is critical in accounting for total removals of each species under ACLs and for the purpose of conducting stock assessments. The development of EM for the fixed gear halibut and groundfish fisheries is another excellent example of the collaborative efforts of the fishing industry and agencies within the Council process to address challenging issues. The fixed gear longline and pot fleets in communities across the Gulf of Alaska have initiated pilot projects and secured funding over several years in cooperative research efforts with NMFS Observer Program and EM providers to develop a data collection and fishery monitoring program that is a model for other regions in the nation.

### Allocation of Commercial and Charter Halibut

Halibut is a very important target species for commercial and recreational fisheries. Following a decade of efforts to control catch of halibut taken by the charter fleet, the Council established a limited entry permit program for charter vessels and established a catch sharing plan. The catch sharing plan defines an annual process for allocating halibut between the charter and commercial halibut fisheries in IPHC regulatory Areas 2C and 3A (Eastern and Central GOA), and establishes sector allocations that vary in proportion with changing levels of annual halibut abundance and that balance the differing needs of the charter and commercial halibut fisheries over a wide range of halibut abundance. The catch sharing plan describes a public process by which the Council develops recommendations for charter angler harvest restrictions (annual management measures) that are intended to limit harvest to the annual charter halibut fishery catch limit in each area. Charter permit holders can also lease commercial halibut annual fishing quotas for use by anglers on their boat, thereby compensating the commercial sector for increased harvest in the charter sector. The Council recently approved a Recreational Quota Entity (RQE) program to allow purchase of commercial halibut quota share to increase the entire charter allowance in each area. Under this market-based approach, a Recreational Quota Entity is authorized to purchase and hold a limited amount of commercial halibut quota share on behalf of guided recreational halibut anglers that may result in less restrictive annual harvest measures for guided recreational anglers in times of low halibut abundance. The Council is currently evaluating refinements to the charter halibut permit program.

### Ecosystem-based Fishery Management

The North Pacific Council has utilized an ecosystem approach to fisheries management for many years. The Council considers the impacts of its actions to the ecosystem by establishing conservative catch limits; establishing sweeping closures to protect habitat, considering the impacts of fisheries on marine mammals and seabirds, minimizing bycatch, and precluding fishing on forage fish populations that support many species. These ecosystem-based fishery management protections are built into the fishery management plans and periodically evaluated and updated. The Council has articulated an ecosystem vision statement and comprehensive ecosystem-based goals and objectives for the groundfish fishery management plans. These ecosystem considerations are taken into account annually during harvest specifications, and the Council pioneered one of the first Fishery Ecosystem Plans in 2007 for the Aleutian Islands, and is currently developing a Fishery Ecosystem Plan for the Bering Sea that builds on the lessons learned from the first plans and other national experience.

These examples illustrate the variety of successful management programs and approaches that the North Pacific Council has taken to manage fisheries resources within the existing structure of the MSA. This is not to suggest that development of these programs has been easy or non-controversial; on the contrary, each one has gone through periods of contention and controversy. No management program is perfect upon implementation, and all of them require review and revision over time; that is the nature of marine resource management. But they are all working successfully or poised to become effective additions to the North Pacific management system.

And I want to highlight several important underlying themes in all of these examples for Congress to keep in mind as it works to reauthorize MSA and considers possible changes;

- A well-structured national policy framework that provides broad objectives with sound guidance, recognizing regional differences and allowing for the development of regionally based solutions.
- The critical importance of science and analysis - in stock surveys, assessments, fisheries dependent data collection and monitoring, research and other aspects - conducted by the many members of the NMFS/AFSC, ADF&G and other partner agencies to conserve and manage marine resources and to provide for sustainable fisheries.
- Ensuring accountability through monitoring and data collection in the fisheries, catch share and other management program reviews, and broad stakeholder participation.
- A process that fosters and encourages the cooperative efforts of diverse and often contentious interests that exist in the North Pacific, as in every region.

### General comments

Finally, I would like to reiterate the Council Coordinating Committee's general thoughts regarding the reauthorization process, which were presented to the Senate Commerce Subcommittee by John Quinn three weeks ago on behalf of all of the regional councils. These represent some general tenets that we believe should be considered relative to any change in the MSA:

- Avoid across the board mandates which could negatively affect one region in order to address a problem in another region. Ensure that we have the ability to develop regional solutions to regional problems. Make provisions region-specific where necessary, or couch them as optional tools in the management toolbox rather than mandates.
- Legislation should allow for flexibility in achieving conservation objectives, but be specific enough to avoid lengthy, complex implementing regulations or 'guidelines'.
- Legislation should be in the form of intended outcomes, rather than prescriptive management or scientific parameters.
- Legislation should avoid unrealistic/expensive analytical mandates relative to implementing fishery closures or other management actions.
- Legislation should avoid constraints that limit the flexibility of Councils and NMFS to respond to changing climates and shifting ecosystems.
- Avoid unfunded mandates, and/or ensure that Councils and NMFS have the resources to respond to provisions of legislation.
- Preservation and enhancement of stock assessments and surveys should be among the highest priorities when considering any changes to the Act.

Once again, thank you for the opportunity to provide these comments on behalf of the North Pacific Fishery Management Council, and I look forward to our continued dialogue on reauthorization of the Magnuson-Stevens Fisheries Conservation and Management Act that is so vitally important for our nation's marine resources and to the people and communities that depend on them.