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Before the House Subcommittee on Fisheries, Wildlife and Oceans
On Rebuilding Overfished Fisheries under the
Magnuson-Stevens Fishery Conservation and Management Act

December 5, 2007

Good morning Chairwoman Bordallo and members of the Subcommittee. My name is Lee Crockett and I direct the Federal Fisheries Policy Reform Project at the Environment Group of the Pew Charitable Trusts. My work primarily involves advocating for strong implementation of the new provisions in the Magnuson-Stevens Fishery Conservation and Management Act that require managers to establish science-based annual catch limits that prevent overfishing. I have been involved with the Magnuson-Stevens Act for over a decade. My first involvement began when I worked on implementation of the essential fish habitat requirements of the 1996 amendments at the National Marine Fisheries Service (NMFS). My involvement continued when I was the executive director of the Marine Fish Conservation Network, a national coalition of commercial and recreational fishermen, environmentalists, aquariums, and marine scientists which advocated for sustainable fisheries management. At the Network we were actively involved with the implementation of the 1996 amendments and the 2006 reauthorization of the Act.

Thank you for asking me to discuss rebuilding overfished fisheries under the Magnuson-Stevens Act. This is an issue that was the subject of much discussion during the reauthorization of the Magnuson-Stevens Act in the last Congress. After much debate, the Congress decided to strengthen the rebuilding requirements by requiring an end to overfishing in rebuilding plans. Then, as now, the debate was not about whether depleted fish stocks should be rebuilt, but in what period of time. Under current law, fish stocks that are identified as "overfished" are required to be rebuilt as quickly as possible, not to exceed 10 years, unless it is not biologically possible. The 2006 amendments added a requirement that rebuilding plans end overfishing immediately upon implementation of the plan.

In my experience, the debate on this issue immediately sinks into the details and jargon of fisheries management and the lay person often has difficulty following the discussion. So, if I may, I'd like to break it down into simpler terms. Fish stocks are identified by NMFS as "overfished" if their stock size, i.e., the number of fish in the water, falls below 20 percent of its historic size. When NMFS notifies a fishery management council that a stock under its authority is "overfished," the council has two years to develop and implement a rebuilding plan. The rebuilding plan must end overfishing immediately (a new requirement from the 2006 amendments), and rebuild the stock as quickly as possible, not to exceed 10 years if biologically possible. Managers determine if it is biologically possible to rebuild a stock in 10 years by evaluating whether the stock could rebuild in 10 years without fishing. If not, then it is not biologically possible and NMFS regulations allow the time it would take to rebuild plus one generation time. The target of these rebuilding efforts, called the biomass at maximum sustainable yield, is a stock size that is 40 percent of its historic size. Although there is some variation in those percentages around the country, that is the general rule of thumb.

Much of the controversy surrounding rebuilding involves the 10-year rebuilding requirement. Some fishing interests call it arbitrary and unnecessarily restrictive. They argue that we need "flexibility" in the rebuilding requirements. These arguments were the subject of hearings in the House and Senate last Congress. Legislation adding this "flexibility" was proposed last year by the former Chairman of the House Resources Committee, Richard Pombo. So, this issue is not a new one; adding "flexibility" to the rebuilding requirements was debated and proposals to

accomplish this were rejected. In fact, Congress strengthened the rebuilding requirements by closing a loophole that some council's were using to allow overfishing in the early years of a rebuilding plan.

The main focus of the reauthorization of the Magnuson-Stevens Act was two-fold. First, overfishing must end if we want healthy fish stocks and sustainable fisheries. Second, fisheries management must be based on science, not politics. Why focus on overfishing? Because despite legal changes made in the 1996 amendments, overfishing still persists. According to the National Marine Fisheries Service's Report on the Status of the U.S. Fisheries for 2006, 48 fish stocks are subject to overfishing, which is 20% of all the stocks that have been assessed by federal scientists.

In a report released yesterday which evaluates "chronic" overfishing, the Marine Fish Conservation Network found, based on nine years of NMFS status of stocks reports, that 49 stocks were subject to overfishing for six or more years of the nine-year period since 1998, 31 were still subject to overfishing in 2006. In addition, the status of 12 shark stocks which were previously subject to overfishing was reclassified as "unknown." By 2006, only 6 of the stocks suffering a six or more year bout of chronic overfishing showed enough improvement to be reclassified as "not overfished." The list of chronically overfished stocks includes iconic fish like, cod, summer flounder, red snapper, and bluefin tuna.

The concept that overfishing must end to rebuild depleted fish stocks sounds like common sense. Not to some fishing interests and their allies on fishery management councils. They have pressured managers to allow overfishing in the early years of rebuilding plans in the hope that short-term economic harm will be averted. But what invariably happens is that while the pain is postponed, the degree of pain increases when the bill comes due.

These folks have an answer for that problem as well: add "flexibility" to the rebuilding requirements. The MSA rebuilding requirements do contain flexibility. As I discussed above, the 10-year rebuilding requirement does not apply if it is not biologically possible to rebuild in 10 years. The 10-year requirement also does not apply if it is inconsistent with an international agreement. What these folks mean is give managers the "flexibility" to avoid making tough decisions. Allow them to delay and delay and delay. That is why a deadline is necessary; it forces action. Without a deadline, it's human nature to put off difficult decisions. We've seen this over and over again in fisheries management, even with the legal deadline in place. Summer flounder is a great example of why we need a deadline.

Summer flounder stocks have been subjected to overfishing for over 20 years. But the stock has increased four-fold as the degree of overfishing has been reduced. But that growth was short lived; in 2003 the stock reached a plateau of about 20 percent of its historic size and has stayed there. Now these same fishing interests are arguing that 20 percent of its historic size is as high as the summer flounder stock will ever get. But scientists dispute this and point out that they are still allowing overfishing and the fishing rate is still significantly above the level necessary to rebuild this stock. This has taken place with a deadline; imagine where the stock would be under a "flexible" management system.

The other main focus of the 2006 reauthorization was that management must be based on science, not politics. Again, this sounds like common sense, but both the U.S. Commission on Ocean Policy and the Pew Oceans Commission found this to be a major problem with fisheries management across the country. They recommended that science should drive the setting of fishing quotas, and that the fishery management councils should allocate those quotas among the various sectors of the fishery. A number of fisheries around the country, like cod in New England and red snapper in the Gulf of Mexico have suffered from politics overriding science. On the other hand, where fisheries management is based on sound science, like Alaska, overfishing is not a problem. To accomplish this, the North Pacific council created rules binding it to the recommendations of scientists when setting catch levels. The North Pacific Council takes this charge very seriously. It is currently considering a 26 percent cut in the pollock fishery based on the recommendations of its scientific advisors. This cut is deemed necessary because of below average survival of young pollock from 2001 through 2008. The interesting thing to note is that even though the Council will be meeting from December 5 – 11th, there is almost no controversy in the media; the industry, managers, and scientists agree that a cut is necessary to ensure long-term sustainability. It is this Alaskan model of science-based management that Congress adopted when it required managers to establish annual catch limits that end overfishing and are based on the recommendations of fishery management council scientific advisors.

The next step in this process is implementation of the new law. NMFS is in the process of developing regulations to guide the councils' implementation actions. We are eagerly awaiting these proposals to see whether they will follow the letter and spirit of the revised law.

What brings us here today I believe is the economic impact of ending overfishing and rebuilding overfished stocks. In many cases, implementation of these requirements will create negative economic impacts in the short-term. Some are arguing that these negative economic impacts should be mitigated by sacrificing conservation. Congress has rejected this path since 1996 when it prohibited setting fishing levels unsustainably high for economic reasons. It did so again in 2006 when it overturned a federal court ruling that allowed overfishing in the early stages of a rebuilding plan to minimize economic impacts.

The long-term benefits of ending overfishing and rebuilding depleted fish stock were demonstrated in an economic analysis by an economist from the University of British Columbia Fisheries Centre which found that U.S. fisheries managers could triple the value of ocean fish stocks if rebuilding plans were followed.

But what about short-term impacts, should we just ignore the very real economic consequences of ending overfishing and rebuilding? No, but sacrificing conservation for short-term economic reasons is not the way the answer. I think federal money for cooperative research, capacity reduction, and transition assistance is a much better way to address economic consequences. Capacity reduction has been used in New England and the west coast with spotty success. Congress attempted to improve these programs in the last reauthorization by adding language to the Magnuson-Stevens Act to insure that fishing capacity is truly reduced and that funds are not used to increase capacity in other fisheries.

I'd like to focus a bit on cooperative research as a potential win win transition assistance program. Cooperative research programs involve fishermen conducting research programs under the guidance of NMFS scientists. These programs have been used successfully in New England and the West Coast to gather fisheries data. For example, I can imagine a program where biological samples like ear bones and ovaries are removed from fish while they are being cleaned on a charter or party fishing boat. These samples, along with the size of the fish and the location of the catch would then be sent to NMFS scientists for analysis. This information would then be used to further refine the assessments for these stocks. The win win is additional money goes to charter and party fishing businesses and managers get additional information to use in their models.

Another area where cooperative research could be useful is in improving recreational fishing catch and discards information. Fishermen could be hired to conduct surveys of the fish caught at boat ramps, marinas, and on party or charter boats. This would improve the accuracy and timeliness of the data. Also, we could institute a tagging program where bait and tackle shops are paid to distribute tags and log books to fishermen. The fishermen would record the size and location of each undersize flounder they tag and release, and the size and location of the legal flounder they keep. This will allow managers to better estimate the mortality of the sublegal size fish that are released.

So, in summary, the Magnuson-Stevens Act is correctly focused on conservation and science-based management. That is the only way that we are going to build healthy fish stocks that support fisheries in the long-term. I urge you and the other members of the Subcommittee to look for other ways to mitigate short-term economic hardship, like cooperative research, rather than compromising conservation. Thank you and I'd be happy to answer any questions that you or other members of the Subcommittee may have.