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ON

REAUTHORIZATION OF
THE MAGNUSON-STEVENSON FISHERY CONSERVATION AND MANAGEMENT
ACT

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

U.S. SENATE

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Good morning, Mr. Chairman and Members of the Committee.

My name is John H. Dunnigan. I am the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), within the Department of Commerce. Thank you for the opportunity to testify at today's hearing on the reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). I want to commend you, Mr. Chairman, and the Committee for the work you have done over the past several months on this reauthorization. The incorporation of input from previous hearings, formal listening sessions, and countless communications with constituent groups is obvious. I am pleased to report that the Administration and Congress seem to be moving in the same direction on several of the most important Magnuson-Stevens Act issues. These points of full or near agreement suggest that the Administration and Congress share a common vision on which issues must be addressed to effectively update the Magnuson-Stevens Act.

THE 1996 SUSTAINABLE FISHERIES ACT

To understand where we are today, we need to look at the progress we have made in implementing the 1996 Sustainable Fisheries Act (SFA) amendments to the Magnuson-Stevens Act. The SFA ushered in a major expansion of fisheries management policy, leading all of us—Regional Fishery Management Councils (Councils), commercial and recreational users, and NOAA's National Marine Fisheries Service (NMFS)—to manage our marine resources for the long term.

Most significantly, the SFA included several key new provisions, including strengthening requirements relating to managing fisheries to avoid overfishing, developing rebuilding plans for overfished stocks, reducing bycatch, identifying and minimizing adverse impacts of fishing operations on essential fish habitat, and taking into account the importance of fishery resources to fishing communities. In the years following passage of the SFA, the Councils and NMFS have made a major and sustained effort to implement these changes. We have faced many challenges, but our marine fisheries are healthier and managed more effectively than they were a decade ago.

I would like to outline some of our key accomplishments:

- We have developed rebuilding plans for nearly all overfished stocks, and we are reducing both overfishing and the number of overfished stocks.
- To address the ongoing concern with bycatch, we now have a national bycatch plan that is continuing to reduce overall bycatch as well as bycatch mortality.
- Using several dedicated access privilege management strategies—e.g., individual fishing quotas, community development quotas, and fishing cooperatives—we are reducing overcapacity in many of our most important commercial fisheries. These initiatives are models for dedicated access privilege programs across the country.

The SFA presented many challenges, and we have gone a long way toward successfully meeting those challenges. Now, almost a decade later, it is time to revisit the Magnuson-Stevens Act and use what we have learned to improve the management of our fishery resources.

MAJOR THEMES IN MAGNUSON-STEVENS ACT REAUTHORIZATION

Our focus on the Magnuson-Stevens Act takes place within the larger context of future ocean policy and governance. In December 2004, the White House issued the U.S. Ocean Action Plan. In light of the discussions surrounding the U.S. Ocean Action Plan, we have been working on Magnuson-Stevens Act reauthorization and considering new issues. We believe that our proposal addresses the most difficult issues raised in Magnuson-Stevens Act reauthorization discussions over the past several years. I would like to outline a few issues that we believe are critical to reauthorization:

Dedicated Access Privileges: A dedicated access privilege (DAP) provides an individual fisherman, cooperative, or community the exclusive privilege of harvesting a quantity of fish (generally, a percent share of a harvest quota). Market-based approaches to fishery management, including DAPs, can help solve many problems inherent in open-access fisheries. Since 1990, NMFS and the Councils have implemented DAPs in eight fisheries that together have annual ex-vessel values of over \$600 million. In these fisheries, commercial fishermen have enjoyed increased profits, decreased costs of gear and labor, and a safer and more stable industry. For example, in 2001, due to the elimination of the open-access “race to fish,” the Alaska pollock catcher/processor cooperative fleet was able to increase product recovery efficiency so much that the amount of marketable product per pound of fish caught increased by 49 percent compared to 1998, the last year of the race to fish. DAPs with transferable quotas allow for a reduction in overcapacity and increased profitability for participating fishermen and communities. Fishermen

can change their fishing practices to reduce bycatch without concern that they will lose target catch to competitors.

Amending the Magnuson-Stevens Act to authorize a broader range of DAP programs with appropriate controls and guidelines will provide fishery managers more options to improve fishery management and enhance the economic performance of the nation's fisheries. Toward that end, we have included in our Magnuson-Stevens Act reauthorization proposal a detailed provision on DAPs, which includes: (1) individual fishing quotas, (2) community quotas, (3) fishing cooperatives and (4) area-based quotas. All four types of DAPs would authorize the granting of exclusive harvest privileges to individuals or to groups, and include market mechanisms for the sale and/or lease of these privileges. The Administration supports the greater use of these market-based management systems to improve the efficiency and sustainability of the harvest of federally managed living marine resources.

Scientific Support for Fisheries Management: The Administration gives high priority to the use of improved and more reliable scientific information in the fishery management process. With that end in mind, the U.S. Ocean Action Plan pledged to develop guidelines and procedures on the use of science in fisheries management. One key way to ensure the quality of scientific information is through peer review of this information. The Administration's bill recognizes the need to strengthen the quality of and the public's confidence in the science used by the Councils in crafting management decisions by bolstering the peer review of this science.

Rebuilding: A decade of experience has convinced us that changes are needed in the Magnuson-Stevens Act rebuilding provisions in section 304. In our view, it is critically important that we revise the Magnuson-Stevens Act to require more timely and definitive actions to end overfishing, and to amend the rebuilding timeframes to better conform to the life history of the overfished stocks.

Data Collection and Access to Economic and Social Information: NMFS and the Councils will need more and different kinds of information—including biological, physical, and socioeconomic data—to improve the management process, make progress toward ecosystem approaches to management, and better anticipate the effects of management measures on commercial and recreational sectors. We propose that the Secretary implement an information collection program to obtain essential economic data. Improved access to economic and social information will also support efforts to quantitatively consider the effects of management measures on processors and communities.

Registration of Saltwater Recreational Fishermen: Complete enumeration of this important user group and subsequent collection of angler information for fisheries management is hampered because the existing state-based system of fishing licenses is incomplete. In the U.S. Ocean Action Plan, the Administration stated that we will work to harmonize data on state-managed recreational fishing licenses and develop a proposal to complete the state-based saltwater recreational fishing license network or propose appropriate alternatives to improve fisheries management. Better data on recreational fisheries are vital in an increasing number of federally managed fisheries. A national saltwater angler registry would ensure that all anglers are represented and accounted for. Knowing who fishes and where they fish will advance our

understanding of fisheries, help improve our scientific assessments, and lead to better management of the resource. The Administration's bill requires NOAA to support and promote the controlled exchange of data for those states that have a system in place for gathering the information that scientists and managers need, and to help those states wishing to develop such a system in the future.

Compliance with the Act: Fishery management regulations require industry compliance to be effective. Compliance is achieved through voluntary behavior; effective fisheries law enforcement; and creating effective financial and penal sanctions. For particularly serious violations of the Magnuson-Stevens Act, NOAA must be able to utilize sanctions that have significant consequences in order to deter potential violators. When fisheries regulations are ignored, it is not only the resource that pays a price, but also the fishers who obey the regulations. Increasing the level of fines and penalties, as well as expanding the types of offenses which can be criminalized under the Magnuson-Stevens Act will help to ensure that sanctions are not simply accepted by violators as the cost of doing business. Enhanced enforcement authority is also consistent with the highly public and active role the United States has taken in promoting international actions to combat illegal, unreported, and unregulated (IUU) fishing in both domestic waters and on the high seas. The Administration's Magnuson-Stevens reauthorization proposal recognizes this need for enhanced enforcement authority and proposes several important changes to existing law to accomplish it.

Compliance with NEPA: In recent years, NMFS and the Councils have worked diligently to ensure compliance with the numerous regulatory assessments that must accompany fisheries management actions. Chief among these mandatory assessments is a formal review of management actions under the National Environmental Policy Act (NEPA), which requires an analysis of the impacts of federal actions on the human environment and a consideration of alternatives to proposed actions. Although there are some overlapping procedural and analytical requirements in the Magnuson-Stevens Act and NEPA, we have already done a great deal of work through regulatory streamlining to ensure NEPA compliance in a timely manner. However, in response to concerns raised repeatedly by the Councils, further work is needed to improve the efficiency and timeliness of the procedures governing compliance with NEPA. The Administration's bill outlines procedures to address this concern.

Fisheries Ecosystems: For several years, fisheries experts, conservation organizations, marine scientists, and various studies have advocated ecosystem approaches to fisheries (EAF), whereby management programs explicitly account for and address all living marine resources within a specific area/ecosystem, including all sources of environmental stress and factors influencing the ecosystem, not just fishing operations. An EAF requires a highly collaborative management process, and the more scientific information that is collected and analyzed, the more incremental progress can be made in creating a comprehensive plan.

We have already been including elements of an EAF in a number of "conventional" Fishery Management Plans that have been substantially modified and expanded in recent years to incorporate ecosystem principles. Most recently several federally managed fisheries, most notably in the Western Pacific, North Pacific, and South Atlantic have adopted an EAF

approach. For example, we have a Coral Reef Ecosystem Fishery Management Plan in the Western Pacific.

However, the Administration supports continued progress toward EAF. The immediate question is how best to modify current fishery management practices to further EAF. It is critical that reauthorization of the Magnuson-Stevens Act provide the Councils overall direction and, equally important, the tools they will need to make meaningful progress toward EAF. The Administration's proposal emphasizes the Councils' discretionary authority rather than mandating actions that in some cases may not be necessary or may exceed the current capabilities of ecosystem science.

CONCLUSION

Our recommendations for this reauthorization would build on current successes and expand the vision Congress advanced 10 years ago. We would like to work with you to develop a bill that can best meet the objectives for the stewardship of our nation's living marine resources. Thank you, Mr. Chairman. I would be happy to answer any questions.