

**Written Testimony of  
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*“Fishing – Jobs: How Strengthening America’s Fisheries Strengthens Our Economy”*

**To the  
Committee on Natural Resources  
United States House of Representatives**

**August 25, 2012**

Chairman Hastings, Ranking Member Markey and distinguished members of the Committee, it is my distinct pleasure and honor to speak to you today regarding the importance of maintaining healthy fisheries in our nation and by so doing, creating jobs and strengthening our economy. My name is Bill Kelly and I am the Executive Director of the Florida Keys Commercial Fishermen’s Association (FKCFA) headquartered in Marathon, Florida. FKCFA is the largest commercial fishing association in the Florida Keys and represents hundreds of men and women actively engaged in the spiny lobster, stone crab and finfish industries. In addition to my present role with FKCFA, I have 35 years of charter/for hire and recreational fishing experience in the waters of the Atlantic Ocean, Gulf of Mexico and the Bahamas.

I have been involved in fisheries management for over thirty years representing commercial and charter/for-hire fishermen and serve on numerous advisory panels to both the South Atlantic and Gulf of Mexico Fisheries Management Councils and the Florida Keys National Marine Sanctuary including: Spiny Lobster, Stone Crab, Kingfish and Mackerel and Ecosystem Based Management. I have also participated and assisted in coordinating a number of cooperative research programs over the years with the National Marine Fisheries Service, Florida Fish and Wildlife Research Institute and The Billfish Foundation.

Chairman Hastings, for the record, my comments here today are solely my own as an advocate for the commercial seafood/fishing industry. My testimony reflects issues critical to fishermen on both coasts of Florida and the Florida Keys.

**(1) Is outdated scientific information available to fishery managers limiting harvest levels and harming the economies of coastal communities?**

Of the 528 fish stocks currently managed by NOAA, approximately 114 are considered adequately assessed by the agency. Approximately 80 of those 114 assessments occur on economically important stocks in Alaska and New England where in some cases assessments occur on an annual basis. Assessments in the Gulf of Mexico and the Southeastern United States occur far less frequently resulting in data poor science on commercially important species such as red snapper and golden crab.

Requirements to end over-fishing coupled with inadequate data and a rush to set annual catch limits to ensure this measure have conceivably brought about significant reductions in harvest capability. So while science based fisheries management is the goal, our inability to provide it at an acceptable level negatively impacts all of us. And the old adage of utilizing the best available science is totally inappropriate when that science is 10-15 years old or more. It is also particularly troublesome when dollars dedicated to science are instead diverted to catch shares and other programs addressing perceived over-fishing when up-to-date science would in many cases negate the necessity for such actions.

It appears to our industry members that NMFS, at times, is quite comfortable using data that are flawed, out-of-date and not based on actual measurements of fish stocks. This is disconcerting knowing the stringent reporting requirements and harvesting rules placed on commercial fishermen while efforts to improve reporting of recreational landings such as MRFSS and the newly implemented MRIP program move at a much slower pace. Accountability in the recreational sector should be just as important. For example, in the Gulf of Mexico the recreational allocation is as follows: Redfish – 100%, Greater Amberjack – 73%, King Mackerel – 70%, Gag Grouper – 65%, Red Snapper – 49%. Quota over-runs by the recreational sector can be egregious as was the case in 2010 when the red snapper quota was exceeded by more than one million pounds.

## **(2) Are governmental restrictions on harvest of fishery resources unnecessarily harming the coastal economies?**

Government restrictions based on inadequate or out-dated data have significant and profound impacts on coastal economies. The Florida Keys are a prime example. The commercial fishing industry in the island chain is the second largest economic engine next to tourism and the second largest employer. This is typical of many small coastal communities throughout America where commercial fishing operations co-exist with seasonal tourism activities. According to recent NOAA rankings the Florida Keys are collectively the largest and most valuable commercial seaport in the State of Florida and in the Southeastern United States. We represent enormous economic value on a local, state and federal level.

Inadequate data and the lack of more localized management measures by the Regional Councils can and does harm coastal communities. We have asked both the South Atlantic and Gulf of Mexico Councils to consider a joint regional management plan for South Florida and the Keys, which they are presently evaluating. South Florida and the Keys represent a unique demographic with the only living reef in North America literally at our doorstep. In addition many of the species we fish for are sub-tropical in nature as compared to temperate water species further to the north.

The 240' closure in the South Atlantic extending out 200 miles to the EEZ to bottom fishing in order to protect Speckled Hind and Warsaw grouper was a good example. Fishermen were denied access to harvest of other bottom species for more than a year until a regulatory amendment was issued lifting the ban. This closure was enacted despite the fact there are no stock assessments on Speckled Hind or Warsaw Grouper to substantiate that either is undergoing overfishing or overfished. Now, there seems to be some preliminary evidence that recruitment of

both Speckled Hind and Warsaw grouper located in the South Atlantic actually comes from the Gulf of Mexico where harvest of both species is ironically permitted. Yet, fishermen in the South Atlantic have been made to pay the price of inadequate science.

**(3) To what extent will governmental programs including catch shares, annual catch limits and the National Oceans Policy affect how fisheries are harvested in the future?**

Catch shares programs are harming commercial fishermen and coastal community infrastructure in New England and the Gulf of Mexico and ENGO's, that have little or no history of fisheries management, continue to press for implementation in the South Atlantic even though the vast majority of fishermen in both the Gulf of Mexico and along the Atlantic coastline continue to voice strong opposition to the expansion of these programs.

Catch share programs are not conservation tools. They are business plans and a type of social engineering most commonly associated with cap and trade. They do nothing to protect the resource and have two common elements associated with their development worldwide – fleet reduction and job loss. In the words of one NOAA pitch-person advocating for catch shares programs to the South Atlantic Council, “There are winners and losers with catch shares.” Now that might play well in big cities like Washington, DC but that doesn't float in small coastal communities like Key Largo or Marathon where even small numbers of “losers” would have a significant impact on the local economies.

The majority of commercial fishermen in both the South Atlantic and the Gulf of Mexico are engaged in multi-species fisheries with each contributing in part to a wholesome, well-rounded business model based on seasonal availability of particular species. Many of the existing catch shares programs eliminate this component from smaller fishing entities by initiating control dates and landings requirements that preclude their participation. In order to fill these voids, many would be forced to lease or buy shares to continue their generational participation in the fishery.

As yet incomplete research on transactional analyses of catch shares programs in the Gulf of Mexico indicates there is a shift in ownership of catch shares and more and more allocation is being accumulated, held onto and leased by non-fishermen. Known as “Slipper Skippers” in the Gulf, these non-fishing entities have found it far more profitable to lease their shares rather than fish them.

Additional trends show that costs associated with leasing shares are actually serving to depress the average price paid to fishermen rather than increase it as was expected. These costs, of course, are ultimately passed on to the consumer in the form of higher prices at the check-out counter and creating the potential for decreased demand for local seafood products.

Some supporters of catch shares programs are actually creating derby fisheries by rushing to catch fish and establish quota in anticipation of catch shares programs eventually being implemented. This creates the potential for spill-over into healthy fisheries like golden crab and king mackerel.

The Gulf Council has yet to complete an analysis of the efficacy of the red snapper catch share program under its jurisdiction and there was no discussion of the progress on this item at the Council meeting held this past week in New Orleans. An evaluation of these programs is of paramount importance and we salute Congressman Southerland and Congressman Grimm for their sponsorship of the Southerland-Grimm Amendment appropriately calling for a prohibition of CJS funding for any new NOAA catch shares programs in FY2013.

Annual Catch Limits, implemented to eliminate or prevent overfishing, serve a legitimate purpose provided they are based on modern, up-to-date science and Southeast Data Assessment Review (SEDAR) stock assessments. Unfortunately, many ACL's have been implemented arbitrarily, in haste and based on inadequate or outdated science in order to comply with provisions in Magnuson.

**(4) Is current data generated by NOAA adequate for fishery managers to comply with the current Magnuson-Stevens Fishery Conservation and Management Act and would proposed amendments to the act improve the situation?**

Changes to the MSA in 2006 significantly altered the way fisheries resources are managed. The new provisions focused on ending overfishing, rebuilding stocks, reducing fishing capacity and developing limited access programs. All of this was predicated on the need for and expectation of better science to substantiate these changes. Requirements to immediately end overfishing added another burdensome layer of management responsibility and caused increased premiums for resources and increased dependence on short-term monitoring of these programs. In this tight budgetary environment, federal fisheries managers now find themselves struggling to meet the demands of MSA. The fact that this Committee has recently considered as many as eight bills targeting MSA reform sends a strong signal that that serious problems exist with the 2006 re-authorization.

With regard to changes in Magnuson, we would ask the Committee for a statutory exemption for trans-boundary stocks and stocks whose life history characteristics prevent us from being able to apply control rules in an appropriate manner especially with regard to spiny lobster (*Panulirus argus*). Recruitment of juvenile lobster to the Florida fishery occurs from sources totally outside of US waters. Thus, Florida fishermen are being held solely accountable for conservative MSA derived catch levels for a trans-boundary or shared resource over which we have no management control. Species such as Florida spiny lobster should be exempt from the ACL provisions of the MSA.

Genetic evidence indicates a near 100% level of external recruitment in the Florida spiny lobster fishery from the Caribbean Basin. Noteworthy is total harvest levels of spiny lobster in Florida represent only 6% of the trans-boundary population.

An exemption from the ACL's for spiny lobster does not mean we support the absence of a quota. Rather, we would prefer a long term average yield approach compared to the overly precautionary ACL process that resulted from the implementation of the 2006 re-authorization.

**(5) Is the precautionary/risk averse approach in combination with decreasing funding for fishery surveys and cooperative research and the 2007 amendments to the Act resulting in unnecessarily depressed harvest levels affecting coastal economies and fishery related jobs.**

A principle tenet of precautionary risk aversion is to act prudently when there is sufficient scientific evidence and where action can be justified to prevent irreversible harm to future generations. Engaging a precautionary/risk averse approach in the absence of hard scientific evidence, due to a failure of effort to acquire that which is attainable, represents a failure of the responsibilities of the management body charged with that mission.

If indeed we are committed to fisheries management based on science as our stated policy, then every effort should be made to acquire appropriate science on all managed stocks to the highest levels attainable, at regular, prescribed intervals, to guide, substantiate and provide rationale for our decision making.

We are far removed from the initial concept of MSA, in which we fished to Maximum Sustainable Yield. NMFS guidelines have instituted a multi-tiered system of further reducing harvest levels beginning with an Over Fishing Limit (OFL), Acceptable Biological Catch (ABC), Annual Catch Target (ACT) and Annual Catch Limit (ACL). These steps may be further reduced by accountability measures, scientific uncertainty and a precautionary/risk averse approach.

**(6) How will the National Ocean Policy affect your activities and will the policy result in further restrictions and create more uncertainty in the management of fishery resources in the Gulf of Mexico.**

Implementation of a National Ocean Policy is an area of concern for Florida fishing constituencies especially in light of its development by Executive Order ... by-passing a thorough review and vetting process by Congress. A basic component of the plan will be the establishment of 9 regional planning bodies comprised of Federal, State and Tribal representatives with broad authority over not only oceans but extending well into the heartland of our nation via rivers, lakes and streams. Conspicuously absent are any representational components from industry.

Florida and our industry will face double jeopardy since we will have to deal with two regional planning bodies complicated by little input opportunity in future decision making in a cloud of uncertainty.

We ask the Committee and Congress to take any steps necessary to protect Florida fishing interests and coastal communities during the implementation of the National Ocean Policy and Coastal marine Spatial Planning.

**In Closing:**

In closing, I would like to thank Congressman Runyan for introducing HR 6350 with specific provisions for amending MSA and providing for additional flexibility for fisheries managers in

setting Annual Catch Limits, transparency for fishermen, a referendum requirement for catch shares, extension of time periods for rebuilding certain overfished fisheries, and additional sources for fishery survey funding.

I would also like to thank you Chairman Hastings and your staff for your leadership and efforts to set the table for a substantive debate on these issues and for recognizing the differences on some of these issues from the Pacific Northwest.

Chairman Hastings, Ranking Member Markey and Committee Members, this concludes the written portion of my testimony. I thank you for the opportunity to present this information to the Committee.