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Testimony on “*Empty Hooks: The National Ocean Policy is the Latest Threat to Access for Recreational and Commercial Fishermen*”

Committee on Natural Resources
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Good morning, Mr. Chairman. Thank you for this opportunity to speak before this subcommittee today. My name is Gary Zurn. I'm senior vice-president and part owner of Big Rock Sports, a wholesale distributor of fishing, marine, camping and shooting sports products. Our offices are located in Newport, NC along the Crystal Coast on the southernmost part of the outer banks. Along with my wife Ruth and son Graig we have lived there for the past 19 years, and have enjoyed our opportunities to fish recreationally, both offshore and inshore along the North Carolina coast.

My company, Big Rock Sports, has five distribution facilities across the United States, and 3 in Canada. Our U.S. locations include Hamlet, NC; Sauk Rapids, MN; Billings, MT; Clackamas, OR; and Fresno, CA. At Big Rock Sports our tagline is "Outfitting the North American Sportsman". We are international in the scope of our business, regional in our product assortments, and local in our business relationships. We currently service 15,000 outdoor sporting goods retailers, carry 110,000 unique products from over 1,200 manufacturers, and have a direct field sales force of 150 sales representatives across the US.

Along with my involvement at Big Rock Sports, I also serve on the board of the American Sportfishing Association. In addition to being on the board, I serve as Chairman of its Government Affairs Saltwater subcommittee, and also serve on its KeepAmericaFishing advocacy committee. I'm here today to not only represent my company and our 15,000 outdoor sporting goods retailers, but also the millions of recreational anglers across the nation who are facing increasingly complex and restrictive fishing regulations and unprecedented new threats to fishing access, particularly in our marine waters.

Recreational fishing generates a powerful economic engine that, in addition to providing employment for approximately one million Americans, provides the bulk of funding for aquatic resources management and conservation. In 2006 – the last year that NOAA Fisheries generated national estimates of effort and participation – 24.7 million saltwater anglers took nearly 100 million recreational fishing trips (97.7 million). Through fishing-related expenditures, including food, lodging, fuel, bait, tackle, gear, boats, houses and vehicles, saltwater recreational anglers generated \$92.2 billion in total sales.

In addition to expenditures on trip costs and fishing equipment, anglers contribute a considerable amount to direct fisheries management at the state level. Across all states, recreational anglers contribute \$621.5 million in license purchases and \$329.8 million across just the coastal states (2010 estimates). The vast majority of this money returns directly to management and enhancement of recreational fishing. In addition to license sales, through the excise taxes on fishing equipment and fuel purchases, recreational anglers contribute \$650 million to state fishery management through the Sport Fish Restoration Program, also known as Wallop-Breaux.

However, this traditional American pastime that provides the backbone for fisheries conservation and supports coastal economies across the nation is threatened like never before. As we strive to end overfishing and rebuild depleted fish stocks, all across the nation anglers are being required to change where and how they fish, and in many cases are facing fewer or diminished fishing opportunities. The implementation of new fisheries management approaches like marine protected areas, catch shares and annual catch limits has put anglers on guard like never before, and the Obama Administration's National Ocean

Policy is yet another issue that anglers view as a potential threat to the future of fishing as we know it in this country. The rollout of the National Ocean Policy has created even greater uncertainty as anglers and recreational-fishing dependent businesses struggle to understand how recreational access will be treated in this complex policy. What the recreational fishing community sees in the National Ocean Policy is not improved science to drive better fisheries management or efforts to promote getting Americans out on the water; but rather more confusing bureaucracy and the serious potential that public waters will be placed off-limits based on poorly-defined ideas of protection and precaution.

The stated vision of the National Ocean Policy is “an America whose stewardship ensures that the ocean, our coasts, and the Great Lakes are healthy and resilient, safe and productive, and understood and treasured so as to promote the well-being, prosperity, and security of present and future generations.” How could anyone be against that? As is often the case, however, the devil is in the details, and when the recreational fishing community looks into this policy we see the strong potential that our community will not be adequately recognized in this process of planning where and how uses can take place in the ocean. What the federal government is contemplating with Coastal and Marine Spatial Planning (CMSP) is not a new concept, as several states have already embarked on similar processes. We would like to see this national process follow the lead of Massachusetts, which gave special recognition to fishing and essentially prohibited these activities from being further regulated under CMSP, and not California, which ignored the recreational fishing community and has closed many of the state’s prime fishing areas.

The Painful Progress of Federal Fisheries Management

While our inland fisheries resources have been well managed by state fish and wildlife agencies for over a hundred years, saltwater fisheries management, particularly on the recreational side, is relatively new. As a result of decades of inattention despite increasing commercial and recreational fishing pressure, many marine fish stocks declined significantly during the 20th century, prompting serious reforms in our federal fisheries management law – the Magnuson-Stevens Fishery Conservation and Management Act (MSA) – in 1996 and 2006. New measures to end overfishing and rebuild overfished stocks have, in general, made significant strides. For example, according to NOAA Fisheries, the percentage of federally-managed stocks experiencing overfishing declined from 38 percent in 2000 to 20 percent in 2010.

These improvements have not come without considerable sacrifices made by recreational and commercial fishermen, however, and the law as written is far from perfect. Many provisions of the law, including the requirement to set annual catch limits on all stocks under federal management, are predicated on up-to-date and quality scientific data on fisheries. NOAA Fisheries presently has 528 stocks of fish or complexes of stocks under management, but only has updated stock assessment data on 121 of the 528. In addition, angler harvest data, which is the basis for many fisheries management decisions, has been collected by the Marine Recreational Fishing Statistics Survey, which the National Research Council concluded was incapable of being used for any purpose.

NOAA Fisheries has long operated under a system that moves slowly and has significant gaps in data collection, not to mention one that has paid little attention to the recreational

sector. Good fisheries management can only take place with a solid foundation of science, and the 2006 reauthorization of MSA did not sufficiently acknowledge just how far behind NOAA Fisheries was, and still is, on collecting the data to lay this foundation. While every region of the country grapples with limited data to some extent, there is a significant disparity in how much data is collected across regions. For example, for the past few years, NOAA Fisheries has been conducting about 80 stock assessments per year in Alaska. At the same time, it has been assessing 15 stocks a year in the Gulf of Mexico, South Atlantic and Caribbean combined, and most of those assessments are for commercial shrimp stocks. For the sport fish that anglers pursue, NOAA Fisheries does about six assessments per year. The lack of stock assessment resources devoted to the southeastern U.S. has created major problems in the region, particularly recently as legal mandates that were predicated on adequate data collection must be met. Two recent decisions by NOAA Fisheries in the South Atlantic highlight the consequences of making management decisions based on poor data.

- After significant declines in the 1960s and 1970s, red snapper abundance in the South Atlantic has steadily increased over the last several decades, and most anglers will tell you that they are now seeing more and larger red snapper than ever before. However, a 2008 stock assessment of South Atlantic red snapper – the first in ten years – showed that the fishery was significantly overfished and undergoing overfishing, although anglers had been managed throughout this time under bag and size limits that were determined to be sufficient by NOAA Fisheries. The new stock assessment information not only triggered a closure of the red snapper fishery which is still in effect, but almost led to a ban on all bottom fishing in a 5,000 square mile area in the South Atlantic.
- Speckled hind and Warsaw grouper are two little known and rarely caught deepwater fish stocks in the snapper-grouper complex. Stock assessments have never been conducted on either stock, but recent catch data (the same data determined by the National Research Council as being fatally flawed) indicate that the average size and abundance of these species has declined. Because they are part of a larger deepwater snapper-grouper complex and are therefore susceptible to bycatch by recreational anglers targeting the complex, in 2010, NOAA Fisheries instituted a complete ban on all bottom fishing in depths deeper than 240 feet.

The overall lack of quality scientific data, combined with strict legal requirements to end overfishing and set catch limits on all stocks, has resulted in numerous management decisions that have taken anglers off the water, hurt businesses and degraded the public's trust of NOAA Fisheries. Anglers are willing to make sacrifices for the betterment of the resource, as long as they know decisions are based on sound scientific information. But many of the sacrifices being imposed on the recreational fishing community are instead based on guesswork, the precautionary principle and fear of lawsuits.

The two examples highlighted above are being reenacted across the country, and unfortunately many more are soon to come because of a legal requirement for NOAA Fisheries to place annual catch limits on all federally managed fish stocks by the end of 2011, regardless of the lack of quality biological and angler catch data. The “one size fits all” nature

of this requirement undermines the discretion by the Regional Fishery Management Councils and is resulting in hundreds of new, arbitrary and precautionary limits being put in place. While the exact consequences remain unforeseen, anglers are expecting even more closures in the near future due to the guesswork and precaution that went into these decisions. This is not fisheries management; it's crisis management.

The Increasing Push for No-Fishing Zones

While the recreational fishing community has focused on improving the existing fisheries management framework, another fisheries management approach has steadily gained more attention over the last several decades. Rather than devoting resources to proven fisheries management techniques, like seasons, bag limits, size limits, etc., some groups are increasingly promoting area-based closures as a means to protect sensitive habitats, rebuild fish stocks, and a variety of other stated purposes. Commonly known as marine reserves or marine protected areas (MPAs), the concept of limiting or completely restricting fishing in certain areas of the ocean or freshwater bodies of water has been used effectively in some instances when supported by science and when all other management options have failed. However, MPAs are now often proposed as a catchall solution to any aquatic resource management issue, without regard for the negative economic and conservation impacts that such draconian restrictions will have.

Recreational fishermen view themselves as conservationists first and foremost, as evidenced by the millions of dollars they contribute to fisheries conservation and the countless hours volunteered towards fish stocking and fisheries habitat projects. Recreational fishing accounts for just 2 percent of all marine finfish harvest, compared to the 98 percent harvested by the commercial fishing industry. According to the NOAA Fisheries, over half of all fish caught by anglers are released alive. Most recreational fishing gear never comes in contact with any aquatic habitat, whereas commercial gears like trawls scour the bottom of the ocean. I say this not to put commercial fishermen in a bad light, but rather to highlight the relatively light environmental footprint that recreational fishermen have on the environment, while also contributing so much— both financially and through volunteer work on fisheries restoration projects – back into conserving the sport we love. This point is too often forgotten or ignored when policymakers and NGOs push for excluding *all* fishing activities in huge swaths of the ocean based on ideology rather than science. Anglers across the country are increasingly seeing more efforts to close public waters for reasons other than sound science.

California is close to finalizing a statewide effort that will place 15-20 percent of the state's coastal waters off limits to fishing through a process called the Marine Life Protection Act Initiative (MLPA). In areas of the state where closures have already been in effect, retailers have reported an average loss in sales of 20 percent, which they attribute to a loss of fishing access as a result of the MLPA closures. This early indicator will be followed by lost sales and jobs in the lodging and food industries that support recreational angler visits to California coastal areas. In the best of times, economic impacts and job losses such as these should never be forced on coastal communities by the State without absolute necessity. Today, in the worst economic climate since the Great Depression, such losses are entirely unacceptable, especially when the program for which they are sacrificed is both unnecessary and, quite possibly, actually destructive to the resources targeted for protection.

There are zero fish stocks in California's coastal waters that are currently undergoing overfishing. The conservation provisions of the state's Marine Life Management Act largely have been implemented, and California's marine fish stocks are rebuilding thanks to traditional fisheries management tools. Issues including ocean side development, invasive species, ocean acidification and terrestrial pollution represent far greater threats to the health of the ocean than recreational fishing ever has, and none of these other threats can be addressed or solved by implementing a network of MPAs.

Perhaps at the root of the problem with the MLPA was the fact that the process was largely funded, through a public-private partnership, by private organizations that favor fishing closures. Under the MLPA process dictated by the agreement between the state and the funding organizations, statutory requirements have been ignored, environmental review has been flawed, and private meetings that should have been open to the public were held, during which important decisions were made. What Californians are left with is a vast, complicated network of closures that the state cannot afford to monitor and enforce, and which will only harm anglers and the businesses that depend on fishing while providing no benefits to the resource.

On the other side of the country, officials at Biscayne National Park are proposing to close some of south Florida's most popular and productive shallow water reefs to all fishing. Given its location adjacent to Miami and abundant recreational opportunities, Biscayne National Park receives roughly 10 million angler visits a year, supporting local businesses and providing a unique opportunity for the public to enjoy the outdoors so close to a major urban area. Marine reserves have been promoted by park officials for several years, despite opposition from numerous stakeholders, the Florida Fish and Wildlife Conservation Commission, and the park's own Fishery Management Plan working group. All of these groups recognize that there are management challenges facing the park, but excluding the public from accessing public resources is not the appropriate way to address these challenges. Ignoring the input from stakeholders and partners, the National Park Service seems intent on going forward with closing off over 10,000 acres of public waters to fishing despite the lack of scientific evidence to support the decision.

National Ocean Policy = More Fishing Closures?

Efforts such as in California and Biscayne National Park to prohibit the public from accessing public resources for reasons other than sound fisheries management directly conflict with the public trust doctrine in which our nation's natural resources are held and create further mistrust of the government. The proliferation of proposals to permanently close fishing areas to the public has made the recreational fishing community increasingly sensitive to potential threats to our sport. Rather than providing an opportunity to expand and promote fishing access to our oceans, anglers cannot help but view the National Ocean Policy – particularly CMSP – as another effort to place areas off-limits to the public based on the planning documents released to date.

An overarching concern of our community with the National Ocean Policy, particularly as it pertains to CMSP, is the treatment of recreational uses as one of numerous ocean "sectors" for which planning activities will occur, along with oil, gas, mining, commercial fishing, transportation and defense. We firmly believe that there is a distinct and inherent difference

between recreational and industrial ocean uses, and their respective impact on the ocean environment. Members of the public who choose to spend leisure time on the water fishing with family and friends are fundamentally different than commercial activities in which a public resource is extracted for the purpose of selling that resource. Recreational use of our public waters is not only compatible with, but in fact is essential to, sound conservation and natural resource stewardship, as highlighted by contributions made to successful conservation programs such as the Sport Fish Restoration Program. Because recreational angling and boating contribute directly to funding the conservation of our nation's aquatic resources and provide other significant social and economic benefits, these activities warrant special and elevated consideration as a national priority as the National Ocean Policy moves forward.

It is worth noting that within this Administration's other major resource conservation initiative – America's Great Outdoors– increasing and improving recreational access is one of the primary goals. Because of its elevated support for outdoor recreation access and opportunities on public lands and waters, our community has strongly embraced and promoted the America's Great Outdoors initiative, whereas the National Ocean Policy, particularly as it pertains to CMSP, has created considerable concern.

While efforts have been made by the Obama Administration to alleviate some of these concerns, such as listing a national goal of CMSP to “provide for and maintain public access to the ocean, coasts, and Great Lakes,” other language in the recently released draft Implementation Plan and previous National Ocean Policy documents fuels the concern that areas of our nation's coastal and marine waters will ultimately be closed to recreational fishing under the CMSP process. For example, the National Objective 2 of CMSP, to “(r)educe cumulative impacts on environmentally sensitive resources and habitats in ocean, coastal, and Great Lakes waters,” can be interpreted to mean identifying areas in which certain oceans uses, such as recreational fishing, will ultimately be restricted.

It is a long-standing policy of the federal government to allow sportsmen public access to public resources for recreational purposes consistent with sound conservation. This policy is reflected in the principles of our wildlife refuges, national forests and national parks. As such, the National Ocean Policy should recognize the unique contributions of the recreational fishing community to the economy and conservation and re-affirm President Clinton's Executive Order on recreational fishing (#12962), as amended by President Bush via E.O. 13474 which requires that recreational fishing be managed as a sustainable activity in federal waters.

In several states that have undertaken coastal and marine spatial planning processes, the existing authority of fisheries management agencies was expressed from the outset. This went a long way towards alleviating concerns that fishing activities would be unnecessarily restricted by CMSP planning bodies which have little, if any, expertise in fisheries management. For example, the enabling legislation for the Massachusetts CMSP process, the Massachusetts Oceans Act of 2008, states:

“In the geographic area subject to the ocean management plan, as described in paragraph (b), commercial and recreational fishing shall be allowable uses, subject to the exclusive jurisdiction of the division of marine fisheries. Any component of a

plan which regulates commercial or recreational fishing shall be developed, promulgated and enforced by the division of marine fisheries pursuant to its authority under chapter 130.”

The Massachusetts act also includes the following language further reinforcing the authority of the state marine fisheries agency:

“The director of marine fisheries, subject to the approval of the marine fisheries advisory commission, shall have sole authority for the opening and closing of areas within the geographic area described in subsection (b) for the taking of any and all types of fish.”

In Washington State, recent legislation to initiate a CMSP process, the Washington Marine Waters Planning and Management Law of 2010, includes similar language providing the state fish and wildlife agency with the sole authority to manage fishing activities as part of the CMSP process:

“If the director of the department of fish and wildlife determines that a fisheries management element is appropriate for inclusion in the marine management plan, this element may include the incorporation of existing management plans and procedures and standards for consideration in adopting and revising fisheries management plans in cooperation with the appropriate federal agencies and tribal governments.”

In the cases of Massachusetts, Washington and Rhode Island – which also undertook a CMSP process – recreational fishing and boating received priority consideration in the development of the plans. Importantly, these processes also required that potential impacts on recreational fishing and boating be taken into account and minimized while planning for other future or existing activities.

To date, the recreational fishing community’s concerns that CMSP will ultimately lead to unnecessary closes of marine waters have largely gone unheard, despite numerous letters and discussions with Administration officials. It is our hope the Obama Administration will review the enabling legislation for the state CMSP processes described above and incorporate similar language reserving management of recreational fishing under existing authorities into the Final Implementation Plan and all future CMSP guiding documents. In Massachusetts, Rhode Island and Washington, elevating the status of the recreational fishing and boating community in CMSP was critical to generating support from our community and ultimately leading to a successful outcome.

Thank you for your time, and I’m happy to answer any questions the committee may have.