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CATCH SHARES AS A MANAGEMENT OPTION: CRITERIA FOR ENSURING SUCCESS—PARTS 1 & 2

OVERSIGHT HEARINGS

BEFORE THE

SUBCOMMITTEE ON INSULAR AFFAIRS, OCEANS AND WILDLIFE

OF THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

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OVERSIGHT HEARING ON "CATCH SHARES AS A MANAGEMENT OPTION: CRITERIA FOR ENSURING SUCCESS"

Tuesday, March 16, 2010
U.S. House of Representatives
Subcommittee on Insular Affairs, Oceans and Wildlife
Committee on Natural Resources
Washington, D.C.

The Subcommittee met, pursuant to call, at 10:05 a.m. in Room 1324, Longworth House Office Building, Hon. Madeleine Z. Bordallo [Chairman of the Subcommittee] presiding.

Present: Representatives Bordallo, Christensen, Capps, Shea-Porter, DeFazio, Brown, Wittman, Chaffetz, Cassidy, Inslee, and Hastings.

STATEMENT OF HON. MADELEINE Z. BORDALLO, A DELEGATE TO CONGRESS FROM THE TERRITORY OF GUAM

Ms. BORDALLO. The oversight hearing by the Subcommittee on Insular Affairs, Oceans, and Wildlife will now come to order.

Today we will hear testimony on "Catch Shares as a Management Option: Criteria for Ensuring Success."

Rebuilding fisheries has clear, ecological, and economic benefits for fish and fishers. To achieve these benefits, fisheries must be managed using the best available science and a suite of management tools, including catch restrictions and gear modifications.

Included in these tools are catch shares, in which individual fishermen, cooperatives, or communities are allocated a specific portion of a total allowable catch.

The management of fisheries using catch shares has thus far been limited in the United States. However, under the new Administration, the National Oceanic and Atmospheric Administration has taken steps to actively promote the use of this particular tool, through a draft policy and a Fiscal Year 2011 budget request of $54 million for a national catch share program.

There is no universal agreement on the merits of the use of catch shares. Proponents argue that they reduce bycatch, increase efficiency, and enhance the industry's role in fisheries conservation.

Opponents, on the other hand, are concerned that catch shares will result in fleet consolidation and the loss of fishing communities. The amount of anecdotal evidence to support either side is considerable, but research about the impacts of catch shares on both the fish and the fishers is quite slim.

One thing is clear. As we continue to rebuild fisheries in the United States, there will be much debate about which tools are most effective and appropriate for different fisheries. What everyone seems to agree on, however, is a growing need for better data to make those management decisions. Because before any tool,

including catch shares, can be implemented, managers must determine how much fish can actually be caught.

In fact, the Regional Fishery Management Councils are required to set annual catch limits, or ACLs, and accountability measures by 2010 for all fisheries subject to overfishing, and for all other fisheries by 2011. Establishing ACLs and accountability measures require the most current information possible. Yet many stock assessments are outdated, and NOAA's new Recreational Fishing Data program is still not providing timely information needed to make management decisions.

Investing in stock assessments, cooperative research, and collecting more accurate and timely recreational fishing information should be the highest priority. But these programs did not receive increases in the President's budget request, while the Catch Share program enjoyed an increase of more than 100 percent.

The concern of some Members of Congress and some in the industry is that this push for catch shares by the agency is coming at the expense of other management responsibilities and fundamental data needs.

So I look forward to hearing from our witnesses today to better understand how catch share programs, if well designed, can be a valuable tool in our management toolbox to sustain healthy fish populations and fishing communities. Still, we must ensure that the push to adopt catch shares does not undermine the fundamental data needs that all fisheries management plans must be built on.

Now it is my pleasure to recognize Mr. Brown, the Ranking Republican Member of the Subcommittee, for any statement that he may have.

[The prepared statement of Chairwoman Bordallo follows:]

Statement of The Honorable Madeleine Z. Bordallo, Chairwoman, Subcommittee on Insular Affairs, Oceans and Wildlife

Rebuilding fisheries has clear ecological and economic benefits for fish and fishers. To achieve these benefits, fisheries must be managed using the best available science and a suite of management tools, including catch restrictions and gear modifications. Included in these tools are "catch shares", in which individual fishermen, cooperatives, or communities are allocated a specific portion of a total allowable catch.

Management of fisheries using catch shares has thus far been limited in the United States. However, under the new Administration, the National Oceanic and Atmospheric Administration has taken steps to actively promote the use of this particular tool through a draft policy and a Fiscal Year 2011 budget request of $54 million for a National Catch Share Program.

There is no universal agreement on the merits of the use of catch shares. Proponents argue that they reduce bycatch, increase efficiency, and enhance the industry's role in fisheries conservation. Opponents are concerned that catch shares will result in fleet consolidation and the loss of fishing communities. The amount of anecdotal evidence to support either side is considerable, but empirical research about the impacts of catch shares, on both the fish and the fishers, is quite slim. One thing is clear—as we continue to rebuild fisheries in the United States, there will be much debate about which tools are most effective and appropriate for different fisheries. What everyone seems to agree on, however, is growing need for better data to make those management decisions, because before any tool, including catch shares, can be implemented, managers must determine how much fish can actually be caught.

In fact, the Regional Fishery Management Councils are required to set annual catch limits, or ACLs, and accountability measures by 2010 for all fisheries subject to overfishing, and for all other fisheries by 2011. Establishing ACLs and accountability measures require the most current information possible, yet many stock as-

sessments are outdated and NOAA's new recreational fishing data program is still not providing timely information needed to make management decisions. Investing in stock assessments, cooperative research, and collecting more accurate and timely recreational fishing information should be the highest priority, but these programs did not receive increases in the President's budget request, while the catch share program enjoyed an increase of more than 100%. The concern of some Members of Congress and some in the industry is that this push for catch shares by the agency is coming at the expense of these other management responsibilities and fundamental data needs.

I look forward to hearing from our witnesses today to better understand how catch share programs—if well designed—can be a valuable tool in our management tool box to sustain healthy fish populations and fishing communities. Still, we must ensure that the push to adopt catch shares does not undermine the fundamental data needs that all fisheries management plans must be built on.

STATEMENT OF HON. HENRY E. BROWN, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF SOUTH CAROLINA

Mr. BROWN. Thank you, Madame Chair. Just a few weeks ago, thousands of fishermen—recreational, charter, commercial fishermen—came to Washington, D.C., to air their concerns about the direction fishery management has taken in this country. Rarely do we see all the fishery sectors speaking with one voice, but in this case we did.

The fishermen came to D.C. to make sure we heard their concerns that Federal agencies are making decisions without good science, and that agencies ignore the fishermen when making fishery management decisions. I share their concerns.

If the agency cannot collect adequate information on how many fish are out there, how can they set harvest levels? If they do not collect the adequate information on the harvest levels of recreational and commercial fishermen, how will they know how many fish are being taken?

This is not rocket science, but it does take money. It seems that while the agency is willing to increase funding by $810 million for one satellite program to gather climate information, it apparently can only find about $1 million in increase for the stock assessment for the 530 fishery stocks that NOAA manages. This does not reflect the actual need of the agency for fishery management.

Where do catch shares fit into all of this? We have some catch share programs across the country that require funding, and we should fund those. But I cannot see why we need to spend $54 million in one year on a new initiative to spread these catch share programs further, especially when fishermen do not appear to be asking for them.

Madame Chair, I know that at the budget hearings we requested a breakdown of how the $17 million for catch share in 2010 is being spent, and how the agency intends to spend the $54 million in 2011. I don't believe we have received that information yet.

But I would also like to ask the agency to provide us with how that 2011 budget proposal will enable us to keep the Red Snapper Fishery open next year. Maybe we should use the $54 million that is proposed for catch share to either get the information necessary to reopen the fishery, or compensate those who have lost their jobs as a result of the closures.

Fishermen are frustrated. And hearing that the budget will not make their fishing opportunities any better next year is not what

they want to hear. Nor do they want to hear that catch shares are the answer to all of their problems.

I would like to suggest that NOAA concentrate on figuring out how many fish are out there, and how to keep fishermen working, rather than spending $54 million to tell fishermen how great catch shares are.

Thank you, Madame Chair, and I am interested in listening to the witnesses this morning.

[The prepared statement of Mr. Brown follows:]

Statement of The Honorable Henry E. Brown, Jr., Ranking Republican, Subcommittee on Insular Affairs, Oceans and Wildlife

Good morning, Madam Chairwoman.

Madam Chairwoman, just a few weeks ago, thousands of fishermen—recreational, charter, and commercial fishermen—came to Washington, DC to air their concerns about the direction fisheries management has taken in this country. Rarely do we see all of the fisheries sectors speaking with one voice, but in this case, we did.

The fishermen came to DC to make sure we heard their concerns that Federal agencies are making decisions without good science and that agencies ignore the fishermen when making fishery management decisions. I share that concern. If the agency cannot collect adequate information on how many fish are out there, how can they set harvest levels? If they do not collect adequate information on the harvest levels of recreational and commercial fishermen, how will they know how many fish are being taken? This is not rocket science, but it does take money.

It seems that while the agency is willing to increase funding by $810 million for one satellite program to gather climate information, it apparently can only find about $1 million in increases for the stock assessments for the 530 fishery stocks that NOAA manages. This does not reflect the actual needs of the agency for fisheries management.

Where do catch shares fit into all of this? We've got some catch share programs across the country that will require funding and we should fund those, but I cannot see why we need to spend $54 million in one year on a new initiative to spread these catch share programs further—especially when fishermen do not appear to be asking for them.

Madam Chairwoman, I know at the budget hearing we requested a break down of how the $17 million for catch shares in FY2010 is being spent and how the agency intends to spend the $54 million in FY2011. I don't believe we have received that information yet, but I would also like to ask the agency to provide us with how their FY2011 budget proposal will enable us to keep the red snapper fishery open next year. Maybe we should use the $54 million that is proposed for catch shares and use it to either get the information necessary to reopen the fishery or compensate those who have lost their jobs as a result of the closures.

Fishermen are frustrated and hearing that the budget will not make their fishing opportunities any better next year is not what they want to hear. Nor do they want to hear that catch shares are the answer to all of their problems. I would like to suggest that NOAA concentrate on figuring out how many fish are out there and how to keep fishermen working rather than spending $54 million to tell fishermen how great catch shares are.

Thank you, Madam Chairwoman.

Ms. BORDALLO. I thank the gentleman from South Carolina. I would now like to recognize—first of all, I would like to ask for unanimous consent that the gentleman from Oregon and member of the full Committee, Congressman Peter DeFazio, be allowed to join us on the dais for this hearing. Hearing no objection, so ordered.

I would like to now recognize the Ranking Member of the full Committee, Mr. Hastings, for his opening statement.

STATEMENT OF HON. DOC HASTINGS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON

Mr. HASTINGS. Thank you, Madame Chair, and thank you for your courtesy.

I appreciate your holding this hearing on the issue of catch shares. Catch share fishery management plans have proven to be an effective management tool in some regions, and in some fisheries. But they are not appropriate, in my mind, for every fishery.

Catch share programs, if desired, should be developed from the bottom up through the Regional Fishery Management Council system, and not forced or mandated by the agency. The agency should not be pushing catch shares where they are not wanted.

A recent presentation by NOAA claims that there are 37 catch share programs that will either be implemented or are in the development stage within the next two-and-a-half years. Where there have been approximately a dozen catch share plans implemented in the last 20 years, expecting three times that number to be implemented or developed in the next two-and-a-half years is unreasonable—especially when the Regional Fishery Management Councils are not aware of which fisheries the agency intends to turn into catch share plans.

There are some who feel that NOAA is pushing catch shares because the agency believes they will solve all of the management problems that face the agency. Implementing catch shares does not replace the need for basic stock assessments, data collection, and enforcement. These are fundamental requirements for effective management of the fishery, whether under a catch share program or some other fishery management plan.

The agency needs to focus its energy on collecting the basic data it needs to effectively manage the fisheries, rather than imposing a new initiative.

There is also growing concern about where the funding for the 37 new catch share programs will come from. At the Subcommittee's hearing on the President's Fiscal Year 2011 budget request, concern was raised that the new catch share program initiative request for $54 million is taking funding away from other agency needs, such as stock assessments, cooperative research, and data collection on recreational fishing activities.

The agency needs to make sure it funds basic fishery management activities, and does not take money away from other fishery management priorities.

NOAA must seek long-term solutions to resolve fishery allocation conflicts. Catch share programs have been, and can be, effective, but only when the fishermen are active participants in the development and the design of those programs. Catch shares will not replace the need for other management activities, and funding for new catch share programs should not come at the expense of existing priorities within the agencies.

Finally, Madame Chair, on a more parochial note, I would like to follow up on a request for a legislative hearing on H.R. 3910, whose bill sponsor is my colleague from Washington State, Rick Larson. The bill would allow members of the longline catcher-processor sector of the Bering Sea to approve a co-op management plan if 80 percent of the members agree. I am an original co-spon-

sor of this bipartisan bill, and would encourage the Subcommittee to hold a hearing on this legislation.

Thank you once again for your consideration, and thank you for holding this hearing on this issue. I yield back my time.

[The prepared statement of Mr. Hastings follows:]

Statement of The Honorable Doc Hastings, Ranking Republican Member, Committee on Natural Resources

Madam Chair, I appreciate you holding this hearing on the issue of catch shares. Catch share fishery management plans have proven to be effective management tools in some regions and in some fisheries, but they are not appropriate for every fishery.

Catch share programs, if desired, should be developed from the bottom up through the regional fishery management council system and not forced or mandated by the agency. The agency should not be pushing catch shares where they are not wanted. A recent presentation by NOAA claims that there are 37 catch share programs that will be either implemented or in the development stage within the next 2 1/2 years. While there have been approximately a dozen catch share plans implemented in the last 20 years, expecting three times that number to be implemented or developed in the next 2 1/2 years is unreasonable—especially when the regional fishery management councils are not aware which fisheries the agency intends on turning into catch share plans.

There are some who feel that NOAA is pushing catch shares because the agency believes they will solve all of the management problems that face the agency. Implementing catch shares does not replace the need for basic stock assessments, data collection, and enforcement. These are fundamental requirements for effective management of the fishery—whether under a catch share program or some other fishery management plan. The agency needs to focus its energy on collecting the basic data it needs to effectively manage the fisheries rather than imposing a new initiative.

There is also growing concern about where the funding for 37 new catch share programs will come from. At the Subcommittee's hearing on the President's FY 2011 budget request, concern was raised that the new National Catch Shares Program initiative request for $54 million is taking funding away from other agency needs such as stock assessments, cooperative research, and data collection on recreational fishing activities. The agency needs to make sure it funds basic fishery management activities and does not take money away from other fishery management priorities.

NOAA must seek long term solutions to resolve fishery allocation conflicts. Catch share programs have been and can be effective, but only when the fishermen are active participants in the development and the design of the program. Catch shares will not replace the need for other management activities and funding for new catch share programs should not come at the expense of existing priorities within the agency.

Finally, Madam Chair, I would like to follow up on a request for a legislative hearing on H.R. 3910 made by the bill's sponsor, Congressman Rick Larsen. The bill would allow members of the longline catcher processor sector in the Bering Sea to approve a coop management plan if 80 percent of the members agree. I am an original cosponsor of the bill and would encourage the Subcommittee to hold a hearing on the legislation.

Thank you for your consideration, and, again, thank you for holding today's hearing.

Ms. BORDALLO. I thank the gentleman for his opening statement.

Before I introduce the witnesses of our panel, I would like to welcome Congresswoman Lois Capps from the State of California, Congresswoman Donna Christensen from the Virgin Islands, Mr. Cassidy from Louisiana, and Mr. Wittman from Virginia. Thank you for being with us this morning.

Now it is my pleasure to introduce our panel. First, Mr. Eric Schwaab, Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration; Dr. Mark Fina, Senior Ecologist, North Pacific Fishery Management Council; Dr. Andrew A. Rosenberg, Senior Vice President for Science and Knowledge,

Conservation International; Mr. Edward Backus, Vice President for Community Ecosystem Services, Ecotrust; and Ms. Leesa Cobb, Executive Director of the Port Orford Ocean Resource Team. I welcome you all this morning, and I would like to thank you for being here.

As we begin, I would note that the red timing light on the table will indicate when five minutes have passed, and your time has concluded. We would appreciate your cooperation in complying with these limits. Be assured, however, that your full written statement will be entered into the record.

We will begin now with Mr. Schwaab. This is your first time appearing, I understand, before the Subcommittee, and I believe your first time testifying before Congress, since you were appointed as the new Director of the National Marine Fisheries Service. Congratulations on your appointment. I thank you for being here today, and look forward to working with you to rebuild the bridge between the fishing industry and the agency.

With that, please proceed.

STATEMENT OF ERIC SCHWAAB, ASSISTANT ADMINISTRATOR FOR FISHERIES, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE

Mr. SCHWAAB. Madame Chairwoman, members of the Committee, thank you for the opportunity to testify before you today on catch shares.

My name is Eric Schwaab, and I am the new Assistant Administrator for Fisheries at NOAA. It is a pleasure to testify before you for the first time in that capacity. Thank you.

In my career in public service, one of my primary objectives has been to focus on creative problem solving that works to fix systemic challenges that we face, working to address the underlying root causes of problems, rather than using a Band-Aid approach to fix symptoms.

The use of catch shares provides an important and effective mechanism to address some of the systemic problems, particularly on the economic side of fisheries management.

As you are aware, we are currently implementing annual catch limit and accountability provisions of the Magnuson-Stevens Act to end overfishing and rebuild fish stocks. In many cases around the country, this requires us to ratchet down fishing levels, which can lead to significant short-term economic impacts in our coastal communities.

However, in the long term, rebuilding U.S. fisheries has the potential to increase the value of fish brought into our ports by an estimated $2.2 billion annually, a 54 percent increase over current values.

In too many cases current management systems have not controlled overfishing, or have done so through the blunt instruments of closures, dramatically shortened seasons, or other economically disruptive measures. Thousands of fishing jobs have been lost as fish stocks have declined. Adverse impacts continue as additional valuable fisheries face large closures or dwindling seasons having undesirable impact on fishing jobs, safety at sea, and the economic vitality of coastal communities.

Catch share systems provide, in many cases, innovative solutions that keep fishermen fishing while resources recover. Rather than employing closures or other very restrictive seasons which push fishermen off the water, catch shares can provide for continued fishing even as stocks recover.

Within a framework of scientifically established annual catch limits, catch share systems give more direct control of fishing activity back to fishermen, allowing fishermen to plan their seasons and be more selective about when and how they catch their allotment.

Because there are shares allotted in the fishery, fishermen gain an economic incentive to catch their allocation at the least cost, when market values are most advantageous, and without going over their allotment. Because as stocks rebuild, the holder's share increases in value.

The security and predictability that comes with catch shares has the potential to help us get out in front of some of the boom-and-bust cycles that we have been dealing with in fisheries for decades. However, I will caution that while catch shares have been successful in many instances, they are not appropriate for every fishery. We need to remain mindful of potential drawbacks that programs may have.

By their nature, catch shares can result in consolidation of the harvesting sector, because some fishermen holding shares will decide to sell or lease privileges to someone else. There have also been concerns about catch share effects on recreational fisheries, the ability to contribute to job losses on shore, or threaten small boat communities as shares are transferred among vessels and ports. All of these concerns can be resolved through proper catch share design.

NOAA's draft catch share policy, released last December and open for comment until April 10, encourages regional fishery management councils to consider the use of catch shares where appropriate.

Catch shares have a great deal of design flexibility to support diverse fleets of both small and large vessels, encourage owner-operated fleets, protect the interests of fishery-dependent communities, set aside shares for specific sectors, including recreational participants, and provide opportunities for future generations to enter the fisheries. Councils must pay particular attention to these design issues.

I would like to spend the last minute I have speaking about the budget situation. The President's Fiscal Year 2011 budget requests a total of $54 million for catch shares nationwide. This request supports analysis and evaluation of fisheries for catch share programs, development of fishery management plans and regulation, and increased investment in observing and monitoring cooperative research and other activities.

This funding is not requested at the expense of other important fisheries research and management programs. Our overall budget has increased from $724 million in 2009 to $908 million in 2011. This $184 million increase demonstrates that fisheries research and management has been a clear priority, and continues as a clear priority, for NOAA.

Many councils face extremely difficult choices as we work to rebuild stocks and improve economic profitability. NOAA is committed to working with the Councils to take the necessary steps to recover these fisheries, and ensure that we are on the path to long-term sustainability of both the resources and the fishing communities.

At this time, or at the appropriate time, I would be pleased to address questions. Thank you.

[The prepared statement of Mr. Schwaab follows:]

Statement of Eric Schwaab, Assistant Administrator, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce

Madam Chairwoman and members of the Committee, thank you for the opportunity to testify before you today on NOAA's draft Catch Share Policy. My name is Eric Schwaab and I am the Assistant Administrator of the National Marine Fisheries Service, within the National Oceanic and Atmospheric Administration (NOAA).

Catch shares are a fishery management tool that has been recommended for consideration by the National Research Council and the U.S. Commission on Ocean Policy, as well as several Members of Congress. In appropriate circumstances, catch share programs can play an essential role in meeting our national goal of rebuilding and sustaining our fishery resources. Such outcomes are a key ingredient to achieving our larger objective of healthy and resilient marine ecosystems.

On December 10, 2009, NOAA released a draft national policy encouraging the use of catch shares, a powerful tool for managing fisheries. The draft policy encourages but does not require the use of well-designed catch share programs. In appropriate circumstances, these programs can help end overfishing, rebuild fisheries, and sustain fishing jobs and fishing communities. In the development of the draft policy, NOAA received individual input from representatives of each of the eight regional fishery management councils (Councils) as well as NOAA experts. NOAA has also worked with individuals from key stakeholder groups before and after the issuance of the draft policy to get their input on this important policy initiative.

In catch share programs, a portion of the scientifically-based, total allowable catch for a species is apportioned to individual fishermen or groups, according to the allocation rules recommended by the regional fishery management councils and approved by NOAA. Each holder of a catch share must stop fishing when his/her specific quota is reached. Catch share programs, which include a variety of approaches like individual fishing quotas and Limited Access Privilege Programs, authorized by the Magnuson-Stevens Fishery Conservation and Management Act (MSA), have operated successfully in the United States since 1990. Currently, there are 15 different catch share programs in place, stretching from Alaska to Florida, and several additional programs are expected to start over the next year.

NOAA's goals in developing a national policy on the use of catch shares are to: (1) reduce administrative or organizational impediments to the Councils' consideration of catch shares; (2) inform and educate stakeholders of the different options and capabilities of catch share programs; and (3) help organize collaborative efforts among interested councils, states, communities, fishermen and other stakeholders on the design and implementation of catch share programs. The draft catch share policy itself is quite simple. It states that: To achieve long-term ecological and economic sustainability of the Nation's fishery resources and fishing communities, NOAA encourages the consideration and adoption of catch shares wherever appropriate in fishery management and ecosystem plans and amendments, and will support the design, implementation, and monitoring of catch share programs.

While the draft policy encourages the careful consideration of catch shares, it does not mandate catch shares be used in any specific fishery or sector (e.g., commercial vs. recreational fisheries). In fact, we believe that catch shares may not be the best management option in some fisheries. Catch shares are but one tool among several for effectively managing fisheries, and they are not a panacea. The key to developing any successful fishery management program is active involvement from fishermen and other stakeholders in the regional fishery management council where the programs are designed.

Under traditional fishery management approaches, a scientifically-based total allowable catch is established for a species overall, and is not allocated to specific individual fishermen or groups. Under this approach, anyone who wants to participate in the fishery can fish, until the overall total allowable catch limit is reached. This

can lead to a competitive environment, with fishermen racing each other to catch as many fish as they can before the total allowable catch is reached and the fishery is closed for the season. We have also seen this approach result in more boats and gear in the water than is either biologically or economically necessary to catch the available harvest. The results of this type of management system often are shorter fishing seasons, unsafe fishing practices and high levels of bycatch. Finally, one other serious drawback to this system is that too many fish may be brought to market at once, depressing the price of fish for fishermen and coastal communities.

Conversely, catch share programs allow fishermen to plan their fishing seasons and be more selective about when and how they catch their allotment, knowing their individual shares are secure. Fishermen participating in catch share programs are able to plan their fishing effort around the weather, markets, or other business considerations. Because they are allotted a share in a fishery, fishermen gain an economic incentive to catch their allocation at the least cost and without going over their allotment because as a fish stock rebuilds the holder's share increases in value. In addition, fishermen need not take unnecessary risks because they can fish whenever they want, and they can fish at times when there is not a glut in the market.

Catch share programs have a proven track record of success in many fisheries in the United States and around the world. Here are a few examples:

- The Crab Rationalization Program allocates Bering Sea and Aleutian Islands (BSAI) crab resources among harvesters, processors, and coastal communities. The program was implemented in 2005 when overcapacity in BSAI crab fisheries had resulted in a frenzied race for crab. Harvesting and processing capacity had expanded to accommodate highly abbreviated seasons, encouraging unsafe fishing practices and resulting in significant portions of the capacity to be idle between seasons. Under the rationalization program, season lengths have increased from 3-5 days to 93-230 days, revenues from the fishery have increased by 40 percent (in constant dollars) in just three years, and fatalities and U.S. Coast Guard search and rescue cases have declined to historic lows.
- The Halibut Individual Fishing Quota Program in Alaska, now more than a decade old, eliminated a dangerous derby fishery that lasted less than a week per year and replaced it with a program allowing for a longer, more profitable and much safer fishing season, and has helped sustain local fishing-dependent communities and jobs.
- Gulf of Alaska rockfish were historically caught in a limited entry derby fishery during 3 weeks in the middle of the busy Alaska salmon season. Product quality was low, and bycatch and discard rates were high. In 2005 the North Pacific Council adopted a catch share-based management program which permits harvesters to form voluntary cooperative associations. Revenues for northern rockfish and Pacific perch have since doubled (in constant dollars) as a longer fishing season (7 months) allows fishermen to produce more high value products, and deliver their catches to processors at times that do not conflict with the salmon season. Notably, the incidental catch of halibut has been reduced substantially, as have discards of other species. Participants report that cooperative management has allowed them to adopt conservation-minded practices without sacrificing their overall opportunity in the fishery.
- A two-year-old catch share program in the Gulf of Mexico is helping rebuild Gulf of Mexico red snapper fish stocks, reducing overcapacity in the fishery and boosting profits for participating fishermen. NOAA scientists announced that overfishing has ended in the Gulf of Mexico red snapper fishery after more than two decades of overfishing. The use of catch shares in the commercial fishery has helped maintain the fishing industry while strict management measures have been in place to end overfishing and move toward rebuilt stocks.
- In British Columbia, the multispecies groundfish fishery use of individual vessel quotas for all species has resulted in sustainable catch levels, greatly reduced bycatch, improved cooperation among fishermen, and safer fishing practices.

While catch shares have been a successful tool in many instances, it is important to note that catch shares are not appropriate for every fishery, and we need to remain mindful of the negative impacts these programs can have. By their nature, catch shares can result in some consolidation of the harvesting sector because some fishermen holding shares make a willing business decision to lease or sell their privileges to someone else. While they are compensated for their exit, others are impacted by their decisions. For example, in the Bering Sea crab fishery noted above, the rate and extent of vessel consolidation surprised many observers, and the traditional number of crew positions was reduced significantly in the first year as vessel owners sold their shares and their vessels left the fishery. Many part-time crew jobs were lost, although catch shares typically lead to an increase in the number of full-

time jobs. There have also been other concerns expressed about how catch shares programs might affect recreational fisheries, contribute to job losses on shore, or threaten the sustainability of small boat communities as shares are transferred among vessels, ports and sectors.

NOAA's draft policy encourages the regional fishery management councils to carefully design catch share programs to effectively avoid or mitigate these issues, using the tools available in the MSA. With the development of any new catch share program, there is a great deal of design flexibility to allow fisheries to support diverse fleets of both small and large vessels, encourage owner-operated fleets, set aside shares for specific sectors such as recreational participants, and provide opportunities for new entrants to enter the fisheries.

NOAA recommends that Councils pay particular attention to the following critical design issues:

- **Set Specific Goals:** Identification of specific management goals for each catch share program is critical, such as eliminating overfishing; ending a race for fish; reducing bycatch; or creating socio-economic stability for fishermen and communities. The more specific the goals, the more precisely a catch share design can be structured to attain them.
- **Define Transferability:** Councils need to work directly with harvesters and the larger fishing community to choose whether, when, and to whom to allow transfers of catch shares to ensure the long-term success of the program. This is a balance between promoting maximum flexibility for fishermen's business decision making and controlling the rate and scale of change in a fishery to address harvesting, processing and community sustainability goals.
- **Consider New Entrants:** Councils need to evaluate catch share designs that allow new generations of fishermen or small businesses into the fishery. Besides set-asides and proper design of initial allocation and transfer criteria, loan programs and permit banks can help ensure continued fishery access in traditional ports.
- **Help Communities:** Thoughtful catch share design can promote sustainable fishing communities, including good jobs, preservation of wharfs, processing facilities, fuel and ice suppliers and other coastal businesses essential to a working waterfront. There are several recently added provisions in the Magnuson-Stevens Act to help sustain fishing communities and small owner-operator fleets via catch shares. These provisions include special allocations to fishing communities and regional fishing associations, and loan programs for small vessel—and entry level—fishermen.
- **Consider Recreational Impacts:** Councils allocate the total allowable catch among sectors in all fisheries, regardless of whether a catch share is used to further distribute the allocation among eligible participants in a sector. Councils can opt to manage the commercial sector with catch shares and manage the recreational sector by other means. The draft policy states that where catch shares are proposed for the commercial sector but not the recreational sector, Councils should evaluate the effects of catch shares on all sectors associated with a fishery.
- **Improve Data:** A key component in any well designed fishery management system, catch shares or otherwise, is accurate and credible data in which managers and stakeholders have confidence. Every limited access privilege program collects a fee of up to 3 percent of the ex vessel value of the landings to support management, data collection and enforcement. Additional appropriated funds have been requested to support expanded data collection, monitoring and observer programs. These funds will support both the science and management needs of catch shares in the areas of stock assessments, catch and bycatch monitoring, research, and catch share compliance and management.
- **Review Progress:** Councils should periodically review all catch share and other fisheries programs to gauge whether they are meeting the goals and objectives; no program will be perfect the first time and Councils should plan for making adjustments over time. Getting feedback on management plan performance and being adaptive makes good sense, and already is required by law for limited access privilege programs.

NOAA has already and will continue to meet with stakeholders and seek broad input on these and other aspects of its draft policy, and we welcome your feedback as well, to ensure the policy addresses any concerns your constituents may have. We continue to schedule constituent briefings, and are traveling to all eight Councils to present the policy and take public comments. We are accepting comments through April 10, 2010.

The President's fiscal year (FY) 2011 budget request a total of $54 million to accelerate and enhance the implementation of catch shares nationwide. The request

supports analysis and evaluation of fisheries for catch share programs, development of fishery management plans and regulations, observing and monitoring at sea and on shore, and enforcement activities.

I want to assure you that this catch share funding is not requested at the expense of other fisheries research and management programs. The FY 2011 budget sustains funding for Fisheries Research and Management and adds to investments to implement the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act. The National Marine Fisheries Service Operations, Research, and Facilities budget request increased from $724.2 million in Fiscal Year 2009 to $907.8 million in FY 2011; this $183.6 million increase demonstrates that fisheries research and management has been, and continues to be, a clear priority for NOAA.

In addition, to collect the foundational data required for fisheries research and management NOAA has invested significantly in its fleet of fisheries survey vessels (FSV). In 2007, Henry B. Bigelow was commissioned and started fisheries research in the northeast in FY 2008. Since then NOAA has received delivery of Pisces and Bell M. Shimada to support fisheries science efforts in the near future. The FY 2011 budget includes requested funds for two fisheries survey vessels, FSV5 and FSV6.

In closing, many Councils face extremely difficult management choices as we work to rebuild stocks and improve economic profitability. NOAA is committed to working with Councils to take the necessary steps to recover these resources and ensure we are on the path to long-term sustainability of both the resource and the fishing community. Whether catch shares are ultimately the option chosen for a fishery or another tool is selected, NOAA is committed to keeping fisheries viable and helping to ensure a future for fishermen, fishing communities and working fishery waterfronts. NOAA will be there supporting and coordinating the science and management actions necessary to attain this shared goal of sustainable fisheries, but we can't do it without help, and we need everyone's support.

Thank you for allowing me to speak with you this afternoon. At this time, I would be pleased to take your questions.

Response to questions submitted for the record by Eric Schwaab, Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, U.S. Department of Commerce

Questions from Chairwoman Madeleine Z. Bordallo (D–GU)

1. Notwithstanding Section 303A of Magnuson-Stevens Act, which affirms that catch shares are privileges, how will NMFS ensure that these shares are not perceived and do not become property rights?

Answer: The *Magnuson-Stevens Fishery Conservation and Management Act* (*Magnuson-Stevens Act*) tasks the Regional Fishery Management Councils (Councils) with the responsibility to control the eligibility, allocation, transfer, duration and revocation requirements of catch share privilege programs. NOAA's National Marine Fisheries Service (NMFS) will work with the Councils on the design of any catch share programs the Councils choose to design, and lead the transformation of these public policy decisions into federal regulations through notice and comment rulemaking processes. In addition, NMFS will provide guidance and oversight to the Council process to ensure the requirements and standards of the *Magnuson-Stevens Act* are met for governing the limited and revocable private use of a permit privilege to harvest a portion of the Nation's public fishery resources.

2. How has NMFS studied the impacts of allocating harvest shares to processors? What percentage of catch would give processors the ability to influence dockside prices?

Answer: Each time a fishery management plan is completed, an environmental and economic impact analysis is conducted, in addition to an overall assessment of compliance with the ten National Standards for fishery conservation and management outlined in the *Magnuson-Stevens Act.* For catch shares, the analysis includes specific assessment of limited access privilege requirements of section 303A of the *Magnuson-Stevens Act* governing consideration of processors and other fishery-dependent businesses. Eligibility to receive initial shares or to allow purchase or lease of catch share privileges by processors is determined by Councils on a fishery-by-fishery basis, and takes into account the unique fishery circumstances and the specific goals that have been developed by the Council for that fishery.

There are as many factors affecting a processor's ability to influence dockside prices as there are fishing ports. Such factors include location of alternative ports and access to/influence of other markets; the species fished and the availability of

domestic or imported substitutes; and local financial relationships (such as processors owning vessels or advancing credit from processors to harvesters).

Councils are required to establish what constitutes an "excessive share" for each fishery whereby a privilege holder acquiring shares in excess of this amount may, among other consequences, have undue market power over price. Any catch share program established by the Councils would therefore set a limit and issue controls on eligibility, allocation and transfers to control this occurrence.

3. How do current programs prevent absentee ownership of shares? Have these programs been able to meet this objective?

Answer: Each of the current U.S. catch share programs (15) have different objectives relative to absentee ownership of shares. In the development of these programs, the Councils and their stakeholders have placed different values on the prevention of absentee ownership of shares as a management plan goal. Some regions have expressed little or no concern about this issue, while others have adopted specific measures designed to prevent absentee share or privilege holders. The most stringent absentee controls are in the halibut/sablefish program where the Council has adopted owner or master on board requirements (i.e., generally the holder of the catch share privilege must be on board the vessel actually fishing). These provisions have worked overall but have required adjustment over time. For example, traditionally as captains age and no longer wish to go to sea, they have turned over responsibility to run their vessel to another family member or a hired master. Owner on board requirements have to be cognizant of the fishery's cultural and business traditions and balance those considerations with other societal goals to minimize or prevent absentee share holders.

On a coarser scale, the Councils control the overall eligibility, allocation, transfer and duration of shares and can thus control which entities, in addition to fishermen, receive or are allowed to hold privileges (e.g., limiting speculators, "Wall street investors," holding companies, etc.). Such controls must be consistent with the goals and objectives of the fishery and consistent with the requirements of the *Magnuson-Stevens Act.* Note that precise data on ownership interests must be obtained and tracked, although experience has shown that at times it can be hard to trace and verify this information.

4. Who pays for data collection under existing catch share programs? Are cost recovery mechanisms being applied to cover the cost of monitoring in any catch share program today?

Answer: Funding for data collection under existing catch share programs is a mix of appropriated and industry sources. The *Magnuson-Stevens Act* only authorizes cost recovery for data collection of Limited Access Privileges Programs (LAPP) satisfying the definitions under section 303A. In these programs, costs for management, data collection and enforcement directly attributable to the catch share program are recoverable subject to a limit of 3 percent of the ex-vessel value of the fishery. The Alaska halibut/sablefish, Bering Sea crab, and Gulf of Mexico red snapper and grouper/tilefish fisheries currently are applying cost recovery mechanisms. The Mid-Atlantic surf clam/ocean quahog fishery (cost recovery program is being developed) and the South Atlantic wreckfish fishery (no recovery because of the de minimus costs of monitoring the two active vessels) comprise the other two eligible LAPPs. The New England sector catch share program is not authorized under section 303A as a cost-recoverable LAPP.

5. How will NMFS address the concern that a commercial catch share program may lock in shares, preventing the recreational sector from expanding their shares?

Answer: Regional Fishery Management Councils allocate the total allowable catch among different sectors, including commercial and recreational sectors, under all management options, not just catch shares. Properly designed management programs ensure these allocations use an appropriate range of criteria to ensure fair and equitable allocations, and provide the means to periodically re-evaluate the allocations to confirm their ongoing relevance to changing biological, economic and social conditions. Catch share management options can expand these options through the consideration of inter-sector transfers of allocations between recreational and commercial sectors.

The *Magnuson-Stevens Act* states that limited access privileges do not create a right, title or interest in a fishery or to any fish before the fish is harvested. The privilege can in fact be revoked, limited or modified at any time in accordance with the law. The Councils need to acknowledge these attributes when they design provisions governing catch share eligibility, distribution, duration, and transferability.

NOAA's draft policy provides specific guidance to the Councils on this topic. NOAA recommends the Councils use the flexibility in catch share program design to implement a fair and equitable distribution of the total allowable catch among the various sectors, including the commercial and the recreational sectors, as appropriate. This means considering the inclusion of allocation criteria such as past, current, and projected fishery participation; current and historical landings; and the economic, social, and cultural characteristics of the fishery.

In practice, a Council could set aside a certain percentage of the allocation of the total allowable catch to be allocated on an annual basis to account for contingencies and changing circumstances or data. Alternatively, a Council could include time schedules in their fishery management plan design to consider reallocation of quota at a future date, or provide a process for future transfers of allocations when certain thresholds or triggers are reached. NOAA recommends such reallocative elements be specified and analyzed up front in the program design, not after the fact.

Additionally, it is important to note that the grant of a catch share privilege to someone is not made in perpetuity. The law defines a limited access privilege as a permit, issued for a period of not more than 10 years. A formal and detailed review 5 years after implementation of the catch share program (and at least every 7 years thereafter) is also required by law. The program can be amended at any time as specified by the Council. Therefore, it is important to set specific management goals with respect to the distribution of benefits and impacts, and consider future reallocation plans and implications in the initial program design.

6. How will NMFS address recreational catch share without sufficient real-time catch data?

Answer: During Council development of any fishery management plan, the data collection, monitoring and compliance aspects of the program design are developed. Experience with existing U.S. catch shares programs have required additional frequency and timeliness in data reporting for the commercial fisheries coming under catch shares. If a Council were to choose to implement a catch share in a recreational sector, additional real time data collection requirements may need to be adopted in that sector as well.

7. Who should be allowed to purchase catch shares? For example should environmental organizations be permitted to purchase catch shares and set them aside for conservation?

Answer: Regional Fishery Management Councils are given the responsibility under the *Magnuson-Stevens Act* to determine the eligibility, allocation, transferability, revocation and duration of limited access privilege programs subject to the requirements of section 303A. The Councils can control who is allowed to purchase catch shares, consistent with provisions of the *Magnuson-Stevens Act* and the goals and objectives identified for their specific fishery management plan. A Council catch share program typically distributes an annual catch limit that is based on a scientifically established total allowable catch. The annual catch limit accounts for scientific and management uncertainty and also accounts for biological, economic, and social factors important to that specific plan. It would be contrary to a Council's publically developed and approved plan to permit catch shares to be used in a manner inconsistent with the stated goal, purpose and administrative record of the program. This may include precluding the sale of shares to be set aside for conservation if that was not an express intent or purpose of the plan.

8. The budget request includes $12.6 million to implement the west coast groundfish catch share program that has been approved by the Council and is pending approval by the secretary. Why is it so much? Is this a one-time cost?

Answer: In the FY 2011 President's budget, NOAA requested $12.7 million for the implementation and operation of the new Pacific Coast groundfish trawl rationalization program. A higher level of monitoring may be needed in the trawl rationalization program in order to ensure that individual or group quotas are adhered to, particularly because it is a mixed-stock fishery, and monitoring and enforcement costs will be greater than for the previous program. Of the $12.7 million, $10 million would be for the training and deployment of monitors/observers and data collection. The remaining $2.7 million requested funding would also support other implementation and operational activities including program administration, enforcement, establishing of program specific share accounting databases and reporting systems, catch monitoring, identifying eligible participants, issuing annual quota for each participant, and adjudicating administrative appeals of the eligibility and catch share decisions.

Some or all of the incremental operational costs for the catch share program can be recovered once the catch share program is operational. Agency cost recovery is capped at a maximum of 3 percent of the ex-vessel value of the fishery. The shore-based commercial groundfish fishery had an ex-vessel value of $59.3 million in 2007. Additionally, NOAA expects that once this program is more established and the fishery is more profitable, industry will also pay some of the monitoring costs associated with this program. As a result, as this catch share program matures, resources planned for this fishery will be reallocated in future years to support the transition to and implementation of catch share programs in additional fisheries.

9. Given that large sums of public funds are being spent to buy back permits/quotas so that these can be subsequently leased to fishers from private "community" permit banks, what advantage is there to such a system versus just directly vesting municipalities with catch allocations that could be leased directly to fishers?

Answer: The present use of appropriations to support permit banks is partially based on the exigency of time. It is possible to directly vest catch allocations to communities under the *Magnuson-Stevens Act* section 303A(c)(3). Councils can develop a limited access privilege program that allocates shares to "Fishing Communities" comprised of residents who conduct commercial or recreational fishing, processing or fishery-dependent support businesses within the Council's management area.

Questions from Republican Members

1. Concern has been raised that NOAA is "pushing" catch shares. NOAA claims that they are merely providing information on how catch share programs could help fisheries management. How do you explain the graphic from a NOAA presentation that claims there are 37 potential plans to be developed or implemented in FY 2011 and FY 2012?

Answer: The draft NOAA policy states that NOAA is not recommending catch shares be used in all fisheries. There is no mandate to adopt catch shares. Moreover, the draft NOAA policy repeatedly stresses that Councils and stakeholders need to evaluate the range of fishery management programs available and choose the one that best fits their goals and objectives.

The 36 potential catch share programs were identified by the eight Councils for possible development. This list is subject to change and NOAA does not expect that all of these fisheries will necessarily be brought under catch share management.

Councils were already choosing to adopt catch shares for their fisheries well before this draft policy was conceived. Six of the eight Councils have implemented 15 catch share programs around the country. The first was in 1990, with nine additional programs in just the last 6 years. NOAA has learned many lessons regarding the best practices for implementing catch shares over the last 20 years. The *Magnuson-Stevens Act* contains more than 10 pages of new statutory language on using this one approach, and therefore NOAA developed a draft policy to provide guidance on the use of catch shares.

NOAA's draft policy closely aligns with the findings and follows the recommendations in the Congressionally-chartered report of the National Research Council (NRC)[1] associated with the 1996 moratorium on individual fishing quota programs. The NRC Report, the U.S. Commission on Ocean Policy, and the 2006 revisions to the *Magnuson-Stevens Act* all suggest that catch shares be considered as an option where appropriate, and that is what the draft NOAA policy states.

2. Can you tell us what fisheries make up these 37 potential catch share programs?

Answer: The following table shows 36 potential catch share programs. This number includes 4 recently implemented programs and 1 more program that is in the process of being implemented. Thirty-one additional fisheries remain on the list of potential programs. These fisheries have been identified by the Councils for possible development of catch shares, but the list is subject to change, and NOAA does not expect that all of these fisheries will necessarily be brought under catch share management.

[1] National Research Council. 1999. Sharing the Fish: Toward a National Policy on Individual Fishing Quotas. National Academy Press, Washington, D.C.; http://www.nap.edu/catalog.php?record_id=6335<P>

Catch Share Program	Regional Fishery Management Council
Mid-Atlantic Golden Tilefish IFQ (effective November 2009)	Mid Atlantic
Gulf of Mexico Grouper & Tilefish (effective January 2010)	Gulf of Mexico
Atlantic Sea Scallops General Category IFQ (effective March 2010)	New England
Northeast Multispecies Sectors (effective May 2010)	New England
Pacific Coast Groundfish Trawl Rationalization (effective January 2011)	Pacific
Atlantic Mackerel & Squid	Mid Atlantic
Monkfish	New England
American Fisheries Act Pollock Salmon Bycatch Program	North Pacific
Gulf of Mexico Reef Fish	Gulf of Mexico
U.S. West Coast Northern Albacore (Highly Migratory Species)	Pacific
Pacific Sardine (Coastal Pelagic Species)	Pacific
South Atlantic Golden Crab	South Atlantic
Western Pacific Longline (HI, AS, Mariana Islands: GU, CNMI)	Western Pacific
Hawaii Pelagic (Non-Longline) Seamount	Western Pacific
Main Hawaiian Islands (MHI) Bottomfish	Western Pacific
Northeast Multispecies Small-mesh (whiting/hake) (Amd 14)	New England
Atlantic Sea Scallops Amd 15 Limited Access (Sectors)	New England
Atlantic Herring	New England
Highly Migratory Species - Atlantic	HMS
South Atlantic Golden Tilefish & Black Sea Bass	South Atlantic
Caribbean Reef Fish	Caribbean
King Mackerel	Gulf of Mexico & South Atlantic
South Atlantic Snapper Grouper	South Atlantic
Mariana Islands (Guam/CNMI) Bottomfish	Western Pacific
Black Sea Bass	Mid Atlantic
Bluefish	Mid Atlantic
Butterfish	Mid Atlantic
Scup	Mid Atlantic
Summer Flounder	Mid Atlantic
Dogfish	New England
Maine Mahagony Quahog	New England
Skates	New England
Gulf of Alaska Rationalization	North Pacific
Halibut Catch Sharing	North Pacific
Halibut Sportfish	North Pacific
Remaining Catch Shares in AK	North Pacific

3. We are told that two of the three being proposed for the Pacific Council are limited access plans for albacore tuna and sardines and that the industry participants do not want limited access for either fishery. Are these two of the fisheries that are considered by NOAA to be potential catch share plans for the Pacific region?

Answer: Currently, the U.S. West Coast Northern Albacore tuna fishery is an open access fishery. The Pacific Fishery Management Council may consider developing a limited entry program to control excess capacity. The Council adopted a control date of March 9, 2000, in case a limited entry program is needed in the future, and any new entrants in the fishery after the control date may not qualify for a permit if a program is implemented in the future. Control dates are established to minimize the rush of new entrants into a fishery that often occurs when limited entry is being considered. Meanwhile, a limited entry system has been in place in the Pacific Sardine commercial fishery since 1999.

The Council has identified the U.S. West Coast Northern Albacore and the Pacific Sardine fishery as potential catch share programs. NOAA is committed to working with the Councils and stakeholders in evaluating catch share management in the U.S. West Coast Northern Albacore tuna and Pacific Sardine fishery, as it works towards our shared goal of long-term sustainability of both the resource and the fishing community. Whether catch shares are ultimately the option chosen for a fishery or another tool is selected, NOAA is committed to keeping fisheries viable and helping to ensure a future for fishermen, fishing communities and working fishery waterfronts. NOAA will support and coordinate the science and management actions necessary to attain sustainable fisheries.

4. Can you tell us where the funding for the $17.4 million for catch shares in FY 2010 was taken from? Can you tell us how it is being distributed (region specific or fishery specific)?

Answer: The source of the FY 2010 enacted $17.4 million for catch shares is comprised of those funds expended for catch shares in 2009 under the Fisheries Research and Management and the Cooperative Research (NE Multispecies Sectors) lines. Please see below for more detail.

Catch Share budget breakout	**FY 2010 Enacted**
Fisheries Research and Management	
Limited Access Privilege Program Implementation and Operations	6,000
Northeast Multispecies Sectors	5,400
Subtotal	**11,400**
Cooperative Research (Northeast Multispecies Sectors)	**6,002**
Total, Catch Share transferred from Other Lines to National Catch Share Program Line	**17,402**

The $6 million in the new Catch Share line item dedicated to Cooperative Research will continue to focus on enhanced stock monitoring and conservation engineering (including technology transfer) to support the transition to sectors and annual catch limits (ACLs). Priority will be given to:

- Fisheries currently managed under a catch share program or for fisheries which are transitioning into catch share management
- Fisheries with interaction with fisheries under catch share management or in transition to catch share management
- Fisheries with significant data gaps for ACLs

5. Can you tell us how the $54 million for FY 2011 will be used? I understand approximately $12 million will be used to implement the Pacific Council's groundfish trawl plan. Is that accurate? What fisheries will the remaining $42 million be spent on? Are these costs expected to be annual costs or are there increased costs associated with the initial implementation?

Answer: NOAA has requested an increase of $36.6 million, for a total of $54 million, in FY 2011 to support the consideration of catch share programs by Councils, and to enhance the implementation of catch shares nationwide. The requested increase would support analysis and evaluation of fisheries for catch share programs, development of fishery management plans and regulations, observing and monitoring at sea and on shore, and enforcement activities. As catch share programs in specific fisheries mature, resources spent to assist those fisheries in transitioning

to catch shares could then be reallocated to support the transition to and implementation of catch share programs in additional fisheries.

In FY 2011, of the $54 million:

- $10.6 million would support activities and capabilities common to many catch share programs that are more efficient to implement at a regional or national level, rather than managing each specific catch share program individually. Examples of such activities include overall program management, improvements in fishery dependent data collection systems to support future catch share programs, quality control on historic catch data to support individual or group allocations, fishery data management, social and economic data collection or analysis, and adjudication of administrative appeals of program participants. Funding requested under this line item would also support electronic reporting, quota accounting, and a lien registry. Some regions have implemented catch share programs, and therefore have a base of expertise and capability to add programs. Other regions need capacity building to begin development of, and will eventually implement and operate, catch share programs.
- $2.0 million would support analysis and development of new catch share programs through the Regional Fishery Management Council process. Catch share programs typically take several years of analysis, stakeholder participation, and Council deliberation before being adopted. Catch Share Plans are more complicated than many fishery management plan amendments, and thus carry increased costs for analysis of alternatives and their impacts. Special stakeholder committees and workgroups, requiring funds for staff support and meetings, are often established to advise the Council on appropriate alternatives.
- $41.45 million would support implementation and operation of specific catch share programs for 17 fisheries (16 LAPPs plus the Northeast multispecies sectors), including four new catch share programs: Gulf of Mexico grouper & tilefish ($6.6 million), Mid-Atlantic tilefish ($0.5 million), Northeast multispecies ($4.4 million), and Pacific groundfish ($12.7 million). Following Regional Council adoption and Secretarial approval of a catch share program, an implementation period of one to two years is common. Key implementation activities include hiring management and enforcement staff, establishment of program specific share accounting databases and reporting systems, identification of eligible participants, issuance of catch shares, computation of annual quota for each participant, and adjudication of administrative appeals of the eligibility and catch share decisions. These activities need to be completed before fishermen begin fishing under the catch share program. The operational costs include program administration, monitoring, enforcement, and science evaluation. Included in this $41.45 million is $6 million for cooperative research related to catch share programs, and is offset by a corresponding reduction in the cooperative research line. NOAA believes that cooperative research is important to develop the most effective catch share programs. Some or all of the incremental operational costs for the catch share programs that meet the definition of a Limited Access Privilege Program under the *Magnuson-Stevens Fishery Conservation and Management Act of 2006* can be recovered once the catch share program is operational. Agency cost recovery is capped at a maximum of 3 percent of the ex-vessel value of the fishery.

National Catch Share Program Breakout ($ in thousands)	**FY 2011 Request**
Activities and capabilities that support and promote catch share programs	$10,550
Analysis and development of new catch share programs through the Regional Fishery Management Council process	$2,000
Implementation and operation of specific catch share programs	$41,452
FY 2011 base funds moved into the National Catch Share Program Line	*$17,402*
Continue support for existing LAPPs	$6,000
Cooperative Research	$6,002
Northeast Multispecies Sectors	$5,400
FY 2011 funds specific to each fishery	*$24,050*
Northeast Multispecies Sectors	$4,350
Pacific Coast Groundfish Trawl Rationalization	$12,682
Mid-Atlantic Tilefish IFQ	$450
Gulf of Mexico Grouper & Tilefish IFQ	$6,568
Total	$54,002

6. Does NOAA consider permit stacking to be a form of catch share?

Answer: Permit stacking is the registration of more than one limited entry permit for a single vessel, where a vessel is allowed additional catch for each additional permit registered for use with the vessel. Permit stacking may be a form a catch share depending on the specific provision of the fishery management plan developed by the Council. If each permit is not tied to a specific share of the catch limit that a fisherman has the right to harvest, the fishery would not be considered a catch share program. However, if the permits are tied to a specific share of the catch limit that a fisherman has the right to harvest, as is the case in the Pacific sablefish fishery, it can be considered a form of catch share.

7. Concern has been raised that the President's budget request for catch shares is taking funding away from other priorities. Do you agree? If not, why not?

Answer: Catch share funding is not requested at the expense of other priorities. The FY 2011 budget strongly supports NOAA's continued investment to implement the *Magnuson-Stevens Act* with a total request of $135.2 million. NOAA's National Marine Fisheries Service Operations, Research, and Facilities budget request increased from $724.2 million in fiscal year 2009 to $907.8 million in fiscal year 2011; this $184 million increase demonstrates that fisheries research and management has been, and continues to be, a clear priority for NOAA.

8. Is level funding for stock assessment work adequate?

Answer: There was a $10 million increase for expanded stock assessments in FY 2010, for a total of $52 million. This funding is sustained in the FY 2011 President's budget request. Although there is no specific budget increase in the FY 2011 request, NOAA's proposed budget will maintain its efforts to steadily increase the percentage of stocks with adequate assessments from only 52 percent in FY 2005 to 60 percent in FY 2011; this improvement is associated with the FY 2008–2010 increases to Expand Annual Stock Assessments (EASA) funding. In FY 2011, NOAA's National Marine Fisheries Service (NMFS) will be able to bring 139 of the 230 priority stocks to an adequate level of assessment. The particular assessments that will be updated in FY 2011 are being determined through regional processes in consultation with the Regional Fishery Management Councils and other partners. Those stocks that have been experiencing overfishing or are on rebuilding plans have the highest priority for immediate assessment. With EASA budget increases in FY 2010, NOAA is initiating new fish abundance surveys that can support additional assessments over the next several years.

9. When will the Atlantic red snapper stock assessment be completed? Will this give the council time to approve fishing measures for the summer or do you expect the closure to be extended?

Answer: The South Atlantic Fishery Management Council (Council) is scheduled to approve Amendment 17A to the Snapper-Grouper Fishery Management Plan (Red Snapper Rebuilding Plan) for Secretarial review in June 2010, which means regulations implementing the area closure could be effective by the end of the year.

The tentative schedule for the South Atlantic Red Snapper Benchmark Assessment is listed below:

- Data Workshop: May 24–28, 2010, Charleston, SC
- Assessment Workshop: A series of webinars June 21- September 29
- Review Workshop October 12–14, Savannah, GA (proposed)

The new Southeast Data Assessment and Review benchmark assessment for red snapper will be completed in October 2010, reviewed by the Council Scientific and Statistical Committee in November 2010, and presented to the Council in December 2010. NOAA's National Marine Fisheries Service is committed to working with the Council to respond to the new assessment findings with any needed management adjustments as quickly as possible. The agency anticipates such adjustments could be implemented by spring 2011.

10. How are recreational fisheries affected when the commercial sector of the same fishery moves toward a catch share program?

Answer: Within a mixed-use fishery, Regional Fishery Management Councils can recommend management of the commercial sector with catch shares and still manage the recreational sector by other means. Catch share programs are focused on the commercial sector of a fishery because they are built on limited access, whereas no recreational fishery sector has limited access to a fishery and no commercial catch share program limits recreational access to fishery resources. Commercial catch shares can benefit all sectors of a fishery by limiting commercial harvests to scientifically based quotas and providing economic incentives for conservation. This

will have a positive impact on fish stock health, which is essential for both the commercial and recreational sectors. NOAA's draft catch shares policy stresses that the Councils should carefully evaluate the potential effects of catch shares on all sectors associated with a fishery, regardless of whether they are in the catch share program.

Additionally, NOAA recommends that Councils periodically review the performance of all catch share programs to determine, among other things, impacts on the fishing community and changes in participation in the fishery at large. Councils are directed to periodically review all catch share and non-catch share programs to ensure they are meeting the intended goals for the fishery, the fishermen, and the fishing communities. The key to success is a thoughtful program design process in which these issues are considered and planned for up-front. NOAA is committed to working with recreational, commercial, and other stakeholder groups to help them assess the pros and cons of adopting a catch share program for their sector.

11. Is NOAA considering catch share programs for any charter fisheries? How would that work? How would that affect recreational anglers?

Answer: In 2009, NOAA implemented a limited access system for charter vessels in the guided sport fishery for Pacific halibut in waters of International Pacific Halibut Commission (IPHC) Regulatory Areas 2C (Southeast Alaska) and 3A (Central Gulf of Alaska). Charter halibut permits are issued to licensed charter fishing business owners based on their past participation in the charter halibut fishery. All charter halibut permit holders are subject to limits on the number of permits they may hold and on the number of charter vessel anglers who may catch and retain halibut on permitted charter vessels. The intended effect is to curtail growth of fishing capacity in the guided sport fishery for halibut. The North Pacific Fishery Management Council found that the charter vessel sector was the only halibut harvesting sector that was exhibiting growth in IPHC Areas 2C and 3A. Some harvesting sectors have specified catch limits that cause fishery closures when reached, while others have been relatively stable over time. The Council recommended this limited access system to provide stability for the guided sport halibut fishery and to decrease the need for regulatory adjustments affecting charter vessel anglers while the Council continues to develop a long-term policy on allocation between the commercial and charter vessel sectors.

Last summer, the Gulf of Mexico Fishery Management Council established a new Ad Hoc Limited Access Privilege Program Advisory Panel to provide feedback and ideas regarding the potential application of catch share programs to recreational and commercial fisheries. Some for-hire fishermen are advocating to be separated from the private recreational sector and allocated a percentage of the red snapper recreational quota under a catch share program. Such a program would be expected to provide charter fishermen greater flexibility to fish when they want and to improve the economic profitability of individual program participants; although fishery managers may continue to rely on fixed seasonal closures to provide specific biological benefits in some situations (e.g., protect fish during their spawning season, reduce bycatch). NOAA is committed to assisting the Regional Fishery Management Councils and constituents in evaluating the pros and cons of sector separation and catch share management; however, the for-hire sector is currently deeply divided in its support for such a program, the implementation of which would likely require a positive referendum vote.

NOAA is currently evaluating public comments solicited on its draft policy that encourages the development of well-designed catch share programs to help rebuild fisheries and sustain fishermen, communities, and vibrant working waterfronts. The draft policy provides a foundation for facilitating the wide-spread voluntary consideration of catch shares, while empowering local fishermen to be part of the process.

12. Do you believe limited access is necessary for a catch share program to be effective?

Answer: Limited access is necessary for a catch share program to be effective because there has to be a defined number of participants. Limited access involves limiting participation in a fishery to a specific group that has met certain eligibility criteria; a Limited Access Privilege Program involves a separate permit issued for exclusive use by a person as part of a limited access system to harvest a quantity of fish expressed by a unit or units representing a portion of the total allowable catch of the fishery. Meanwhile, catch share is a general term for several fishery management strategies, including Limited Access Privilege Programs, that allocate a specific portion of the total allowable fishery catch to individuals, cooperatives, communities, or other entities. Each recipient of a catch share is directly accountable to stop fishing when its specific quota is reached. Although there must be a

defined number of participants and/or quota shares, both limited access and catch share programs provide mechanisms for new entrants into the fishery.

Ms. BORDALLO. Thank you very much, Mr. Schwaab, for further explaining NOAA's draft catch share policy.

Now I recognize Dr. Fina. Thank you for being here today, and please proceed.

STATEMENT OF MARK FINA, Ph.D., SENIOR ECOLOGIST, NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

Mr. FINA. Good morning, Madame Chair and members of the Committee. I am Mark Fina, Senior Economist for the North Pacific Fishery Management Council.

I appreciate having the opportunity to offer comments to you on our experience with catch shares in the North Pacific. Our Council will be finalizing its comments on NOAA fisheries catch share policy at its April meeting.

A primary focus of those comments will be ensuring that the guidance in no way impinges on Council authorities provided by the Magnuson-Stevens Act for introducing and designing catch share programs for the fisheries it manages.

The Council's use of that authority, together with the flexibility it provides, has been critical to determining when and what type of catch share management is appropriate for our fisheries.

The North Pacific Council manages groundfish and shellfish fisheries in the Federal waters off Alaska. All of these fisheries are managed under annual catch limits and some type of limited access program. As a part of our evolution of our management, we have adopted a variety of programs, which now might be characterized as catch shares or limited access privilege programs.

These programs were adopted for a variety of reasons, and serve a variety of objectives, including improvements of safety and production efficiency, and reductions in bycatch. Each is tailored to the specific needs and circumstances in the fishery. Each was developed through years of Council deliberation, supported by hundreds of pages of analysis.

Stakeholders and the public had several opportunities for input, with significant and meaningful effects on the outcome. This open, deliberative process is critical to both stakeholder acceptance of a program, and achieving an appropriate balance among often divergent interests.

While the Council's public process is intended to ensure that a program achieves its goals with minimal negative consequences, decision makers should be prepared to critically review the effects of these programs and adopt modifications as needed. In some cases, subsequent actions intended to mitigate negative effects may carry equally undesirable consequences. These practical barriers to reversing catch share programs to remedy hardships suggests the catch share programs should be approached with caution.

When considering a catch share program, the stakeholder and management burdens should not be overlooked. Stakeholders' and managers' time is greatly taxed by the extensive public process.

The time for rulemaking and implementation of catch share programs after Council action can exceed two years. Care must be

taken to ensure that these time commitments do not constrain our ability to address other pressing management needs.

Monitoring and enforcement burdens may also rise, as each permit represents a privilege to harvest a certain quantity of fish, rather than the general privilege to participate represented by a limited-entry license.

Despite these caveats, the Council believes that when appropriate for a fishery and carefully designed, catch shares are a very effective management measure.

In the North Pacific we have five major catch share programs: the Halibut and Sablefish IFQ program; the Bering Sea Pollock Cooperatives, as defined by the AFA; the Bering Sea and Aleutian Islands Crab Rationalization program; the Amendment 80 Cooperative program in the Bering Sea and Aleutian Islands; and the Central Gulf of Alaska Rockfish Pilot program. My written testimony includes brief descriptions of each of those programs.

In two other fisheries, after extensive deliberations, the Council elected not to adopt catch share programs. This reflects its view that some fisheries may not lend themselves to catch share management. In all of the catch share programs in the North Pacific, program elements reflect a balance of competing interests of those who rely on the fisheries, including vessel owners, processors, crew, communities, environmental interests, and the public. Yet several important management concerns, such as habitat and endangered species protections, are unlikely to be addressed by catch share management, and may require independent management measures.

Catch share management, however, may provide a benefit when addressing these environmental concerns by allowing for new adaptive management measures that might otherwise be unworkable.

In addition, the flexibility provided to participants by catch share management may ease the burden associated with complying with those management measures. Understanding both the benefits and limitations of catch share programs is important to their successful use.

Over the past 15 years, catch share programs have become an important part of the fishery management regime in the North Pacific. By using the authority to establish catch share programs with discretion, the North Pacific Council has developed an array of programs that serve a variety of interests in the fisheries it manages.

The Council looks forward to advancing its management of North Pacific fisheries, and appreciates the authority entrusted to it by Congress under the Magnuson-Stevens Act, including the authority to develop catch share management as appropriate.

Thank you for this opportunity. I would be happy to answer questions at the appropriate time.

[The prepared statement of Dr. Fina follows:]

Statement of Mark Fina, Ph.D., J.D., Senior Economist, North Pacific Fishery Management Council

Good morning Madam Chair and members of the committee. I am Mark Fina, Senior Economist for the North Pacific Fishery Management Council. I appreciate having the opportunity to offer comments to the Subcommittee on our experiences with catch shares in the North Pacific. Our Council will be finalizing its comments

on NOAA Fisheries catch share policy at its April meeting. A primary focus of those comments will be ensuring that the guidance in no way impinges on Council authorities provided by the Magnuson-Stevens Act for introducing and designing catch share programs for the fisheries it manages. As you will note throughout my comments, the Council's use of that authority, and the flexibility it provides, has been critical to determining when catch share management is appropriate for a fishery and the development of programs that equitably balance the interests of stakeholders. I would be happy to share those comments with you when they are completed.

The North Pacific Council manages groundfish and shellfish fisheries in the Bering Sea, Aleutian Islands, and Gulf of Alaska in federal waters off Alaska. Major groundfish fisheries include pollock, Pacific cod, rockfish, flatfish, sablefish, and Atka mackerel. In addition, allocations in the halibut fishery are determined by the Council, in concert with the International Halibut Commission, which manages the biological aspects of the fishery. The North Pacific Council also jointly manages crab and scallop fisheries with the Alaska Department of Fish and Game.

All federal fisheries off Alaska are managed under annual catch limits and some type of limited access program. Over time, the Council has adopted a variety of management measures to address specific, relevant issues that have arisen in particular fisheries. These measures address a range of concerns from social and economic issues, such as those addressed by the Community Development Quota program, to environmental issues, such as area closures to protect habitat. As a part of the evolution of our management, we have adopted "individual fishing quotas" (IFQs), "community quotas," "fishery cooperatives," and "rationalization" programs—all of which allocate portions of the total allowable catch to fishery participants—in several of our fisheries. These programs (which now might be characterized as "catch shares" or "limited access privilege" programs) were adopted for a variety of reasons; each tailored to the specific needs and circumstances of the fishery, its participants, and stakeholders. Each program was developed through years of Council deliberation, supported by hundreds of pages of analysis. Stakeholders and the public had several opportunities for input throughout the Council's development of these programs, often resulting in the inclusion and revision of important elements. This open, deliberative process is critical to both stakeholder acceptance of a program and achieving an appropriate balance among often divergent interests.

The gravity of the radical change in management to catch shares for some stakeholders should not be underestimated. As with all management programs, catch shares programs, particularly at the initial allocation, define "winners" and "losers". While the Council's public process is intended to ensure that a program achieves its goals with minimal negative consequences, decision makers should be prepared to critically review the effects of these programs and adopt modifications as needed. In some cases, subsequent actions intended to mitigate negative effects may carry equally undesirable consequences. For instance, redistributing shares after the initial allocation to rectify inequities in that initial allocation may be considered unfair by some participants, particularly if shares are taken from persons who used loans to fund their purchases based on an expected stream of income that would be derived from those shares. These practical barriers to reversing catch share programs to remedy hardships suggest that catch share programs be approached with caution.

When considering a catch share program, the stakeholder, administrative, management, and monitoring burdens should not be overlooked. Stakeholders' and managers' time is greatly taxed by the extensive stakeholder and public input, alternative analysis and review, and Council deliberations associated with development a catch share program. In our experience, the time for rulemaking and implementation of catch share programs after Council action has in some cases exceeded 2 years. Care is taken to ensure that these Council and staff time commitments do not constrain our ability to address other pressing management needs. Additional monitoring and observer coverage may also be necessary to oversee catches and landings of exclusive allocations, particularly in multispecies fisheries where catch shares may allow a vessel to improve returns by discarding less valuable catch. Enforcement burdens may also rise, as each permit represents a privilege to harvest a certain quantity of fish, rather than the general privilege to participate represented by a limited entry license. These added costs and burdens are an important consideration for both fishery managers and stakeholders, when considering whether to advance a catch share management program in a fishery. Despite these caveats, the North Pacific Council believes that, when appropriate for a fishery and carefully designed, catch shares are a very effective management measure.

I would like to spend the remainder of my time briefly reviewing some aspects of the different catch share programs that we have adopted in the North Pacific. I will touch on the Council's rationale for each program, design characteristics re-

flecting the rationale, performance of the program, some unanticipated consequences, and the Council's responses to mitigate those consequences. I will conclude with a brief summary of some considerations that I believe are critical to the development of effective catch share programs.

Halibut and sablefish Individual Fishing Quota (IFQ) program

The halibut and sablefish fisheries support a large number of small vessels with strong community ties. In 1995, NOAA Fisheries implemented the halibut and sablefish IFQ program approved by the Council in 1992. These two fisheries are similar in many respects. Both species are targeted with fixed gear, primarily longlines, and command a relatively high ex-vessel price. Prior to implementation of the IFQ programs, the fisheries were open access, regulated by managers monitoring catch in-season with closures timed to coincide with harvest of the total allowable catch. The catching power of this fleet posed several management challenges. To limit total catch to the level needed to protect stocks, managers progressively shortened fishing seasons, creating a derby as fishermen raced to obtain a share of the fishery. At the extreme, in some regulatory areas, halibut seasons were reduced to 24-hour derby openings. Managers had difficulty regulating harvests, as harvest levels could not be accurately gauged for these very short openings. Gear losses were believed to be excessive, resulting in an estimated 2 million pounds of halibut mortality annually, as unretrieved gear continued to catch fish. Safety was compromised, as owners of smaller vessels felt compelled to fish, regardless of the weather, to maintain their participation. Catch quality suffered as some vessels queued at processing plants for up to a week waiting to offload. The IFQ program—the result of years of Council deliberations—was largely intended to control expansive growth in participation in the fisheries and the end the derby.

The IFQ program is designed to balance a number of goals and interests. To reflect historic participation and fishery dependence, initial allocations of shares were based on catches from the fishery over three years. Over 4,800 persons received initial allocations in the halibut fishery that drew approximately 3,500 participating vessels annually in the years leading up to implementation of the IFQ program. To maintain fleet composition, shares are classified for use by vessel type (catcher processor or catcher vessel) and length, with limits on the use of shares outside of their designated vessel type and size class. Most shares are divisible and transferable subject to consolidation limits. To maintain the small vessel, owner-operator character of the fleet, catcher vessel shares carry owner-on-board requirements, limits on the use of hired skippers, leasing prohibitions, and may be transferred only to individuals (not corporations or partnerships). In addition, only persons able to demonstrate active time as crew in commercial fisheries are permitted to acquire shares. To provide entry opportunities, consolidation of small blocks (or allocations) of quota is limited and loans are available to aid newcomers and small vessel operators. Seasons extend several months allowing share holders to time their harvests to avoid poor weather and sell to desired markets.

Since implementation of the program, several changes have been observed in the fisheries. The number of share holders and number of vessels in both the halibut and sablefish fisheries have declined substantially. A new type of cooperation has developed as share holders consolidate their holdings and fish them off fewer vessels to reduce costs. This tendency is borne out, as the number of active share holders substantially exceeds the number of vessels. This practice is significant, as it demonstrates that the program provides an alternative, more gradual, means of entry, when compared to purchasing a license and vessel to enter a limited entry fishery. In the halibut fishery, in particular, product quality has improved dramatically with a substantially larger share of the catch being sold to fresh fish markets. Gear losses and associated mortality are believed to be inconsequential under IFQ management. In addition, safety improvements in the fishery have been documented through declining fatalities and U.S. Coast Guard search-and-rescue missions.

Despite these benefits, not all stakeholders are satisfied with the outcome of the IFQ program. In many cases, the Council has taken action to address these concerns. The first amendments to the program, intended to improve entry opportunities, were implemented simultaneously with the IFQ program itself. In addition, many quota holders in Alaska's smaller coastal communities have chosen to transfer their quota to others or have moved out of these communities. As a result, the number of residents of small communities holding quota and the total amount of quota that they hold have substantially declined since the implementation of the IFQ program. In response, ten years after the original implementation, the Council revised the IFQ program to authorize certain remote coastal communities with few economic alternatives to purchase and hold shares to ensure their access to, and sustained participation in, the IFQ fisheries. The Council is currently conducting a five-year

review of this community purchase program, giving particular attention to program elements and market factors that might contribute to a dearth of community purchases to date. While some may suggest that a redistribution of shares to communities might address this issue, such a redistribution might be view as inequitable by persons who purchased shares, on the expectation of receiving returns from those purchases for several years.

Bering Sea pollock cooperatives (under the American Fisheries Act)

The Bering Sea pollock fishery is a high volume industrial fishery, with large scale shore-based and at sea processing sectors. In 1998, Congress adopted a cooperative management program for the Bering Sea pollock fisheries. This Congressional action followed a prolonged, contentious allocation debate between the inshore sector (who deliver their harvests to shore-based plants for processing) and the offshore sectors (who process their catch at sea). The program divides the total allowable catch among the sectors, with 50 percent allocated to the inshore sector, 40 percent to the catcher processor sector (including the catcher vessels that deliver to catcher processors), and 10 percent to the mothership sector (floating processors that receive deliveries from catcher vessels at sea), after set asides to the Community Development Quota program and to support catches in other fisheries.

Although an allocation dispute was the catalyst for the development of the program, the cooperative structure is intended to address a variety of interests and issues. Allocations are made to vessels based on historic catches. Eligible vessel may then join a cooperative to access exclusive annual allocations. Management burdens are reduced as NOAA Fisheries monitors catch at the cooperative level, with all members of a cooperative jointly and severally liable for violations of their cooperative. Under the system, cooperatives distribute allocations among member vessels and oversee individual vessel harvests with contractually defined and privately administered penalties for violations of the cooperative agreement. In part due to processor-voiced concerns about the redistribution of landings under the halibut and sablefish IFQ program, the catcher vessel program creates a closed class of shore-based processors. To access an exclusive allocation, a catcher vessel must join a cooperative in association with one of the shore-based processors. Vessels that elect not to enter such a cooperative may fish a limited access fishery, without the benefit of an exclusive allocation. The program also recognizes potential spillover effects on other fisheries that could arise if vessels consolidate harvests or time of harvests to allow for greater participation in other fisheries. To prevent encroachment of pollock vessels and processors in these other fisheries, "sideboards" limit pollock fishery participant catches and processing in these other fisheries.

In the catcher processor and mothership sectors, ending the derby fishery has allowed for greater attention to production costs and product quality and the development of a broader range of products and higher utilization rates. In the inshore sector, the cooperative/processor structure has induced similar gains. Landings are coordinated by cooperatives to avoid gaps in processing and offload delays that might compromise product quality and increase processing costs. Many participants in the fishery use revenue sharing arrangements, under which both catcher vessels and the processors that they delivery to share gains from additional product revenues. In addition, the exclusive allocations under the program gave participants a secure interest that facilitated improved cooperative efforts to pursue added value for the fishery as a whole through Marine Stewardship Council certification.

While the pollock cooperative program, in and of itself, is considered a success by many stakeholders, some of the greatest effects of the program have arisen through ancillary management measures that are not directly part of the cooperative program. Almost simultaneously with the implementation of the cooperative program, NOAA Fisheries introduced area closures and measures to spatially and temporally disperse pollock catch to protect Steller sea lions. While these measures clearly impinged on fishing activity, participants were able to comply more readily and effectively through coordination of fishing in cooperatives using their exclusive allocations under the program. For example, rather than a concentrated derby developing in areas from which a limited portion of the allowable catch could be harvested, vessels coordinated harvests from those areas distributing catches over a greater period of time. More recently, a series of Chinook salmon bycatch measures that require extensive fleet coordination have been adopted. First, the Council adopted an industry managed system of "rolling hot spot closures," which rely on real time bycatch information to close areas of high Chinook salmon bycatch, as an alternative to a less flexible, regimented system of area closures that had unacceptable effect on Chinook salmon bycatch rates. To further Chinook salmon avoidance, the Council recently adopted an incentive program, under which participants who enter contractual agreements that contain incentives for Chinook salmon avoidance at all bycatch

levels will be subject to a higher Chinook salmon bycatch cap. A performance standard requires that participants in this incentive program maintain bycatch well below the elevated cap in a majority of years to continue to receive the benefits of the elevated cap. The program is intended to accommodate uncertainties in Chinook salmon bycatch rates by creating incentives for Chinook salmon avoidance in years of low bycatch that would not exist under simple fixed quantity bycatch limits. Both the "rolling hot spot closures" and the proposed incentive agreements depend heavily on fleet sharing of catch and effort information that would likely have been inaccessible prior to implementation of the cooperative program.

Bering Sea and Aleutian Island crab rationalization program

Since their inception, the Bering Sea and Aleutian Islands crab fisheries attracted participants willing to undertake great financial and personal risks. This large vessel, industrial fishery has a large scale onshore processing sector with strong community dependence. Notwithstanding the adoption of measures to limit entry, several of these crab fisheries attracted excess capital with overcapacity resulting in a race for crab. In the each of the last four Bristol Bay red king crab fishery derby seasons (prior to the rationalization program), the entire season's allowable catch (between 8 million pounds and 14 million pounds of crab annually) was harvested in 5 or fewer days; in each of the last three Bering Sea C. opilio (snow crab) derby seasons, the season's allowable catch (in excess of 20 million pounds of crab annually) was harvested in fewer than two weeks. This derby management compromised safety as crews worked around the clock to maximize catch; economic returns were sacrificed by this race; and management and conservation of the resource was complicated as managers attempted to time each fishery's closing to avoid overruns of the allowable catch. In response to these concerns Congress directed the Council to consider "rationalization" alternatives for these fisheries. In response, the Council developed its Bering Sea and Aleutian Islands (BSAI) crab "rationalization" program, which Congress later authorized.

The Council's rationalization program reflects its desire to accommodate the interests of several groups dependent on these fisheries—vessel owners, processors, captains and crew, and communities. Under the program, 97 percent of the harvest share pool was initially issued to limited access license holders based on catch histories. The remaining 3 percent of that pool was allocated to captains, based on their fishing histories, for exclusive use by persons active in the fisheries. Processors were issued processing quota shares base on their processing histories in the fisheries. Under these allocations, 90 percent of the catcher vessel owner harvest shares are designated for delivery to holders of corresponding processing shares. Shares are divisible and transferable subject to limits. Share holders are permitted to form cooperatives to aid in the coordination of harvests. Community interests are protected through several measures including community landing requirements that maintained the historic distribution of landings in the first two years of the program, a regionalization program that requires that catch made with certain shares be landed and processed in designated regions, and community rights of first refusal on transfers of processing shares. An arbitration system is included in the program to resolve price disputes, which could arise because of the constraints on markets created by the dual harvester/processor share allocations.

Many harvesters were concerned about the price effects of the market restrictions of processor shares. Yet, in the first few years of the program, the arbitration program has effectively ensured that harvesters have continued to receive an ex vessel price that reflects their historic division of first wholesale revenues for landings, in lieu of a competitive price. In addition, the processor share component of the program has limited redistribution of landings from historic processing plants, which have substantial investments in the fisheries. Regional landing requirements have been particularly important in maintaining the distribution of landings to remote communities, particularly the Pribilof Island community of St. Paul. St. Paul is home to one of the largest crab processing plants and derives a notable share of its annual tax revenues from the Bering Sea C. opilio (snow crab) fishery. The rationalization program, together with a progression of U.S. Coast Guard safety measures, is believed to have improved safety in the fisheries by allowing captains to remain in harbors or stop fishing in inclement weather and take time to service vessels in-season without risking loss of catch. Some participants have also credited the program with allowing vessels to slow operations, resulting in significant fuel savings.

As expected, the program facilitated the removal of a substantial number of vessels from the fleet in the first year of the program, reducing the Bristol Bay red king crab fleet from approximately 250 vessels to fewer than 100 vessels and the Bering Sea C. opilio (snow crab) fleet from approximately 175 vessels to fewer than 80 vessels. This removal of capacity is believed to have provided a substantial re-

turn to those vessel owners who sold their shares and retired their vessels or deployed them in other fisheries, with sale revenues being used to pay outstanding vessel mortgages or other vessel related costs (if the vessel is maintained for use in other fisheries) and remaining amounts being profits to the share holder.

Although this reduction in capacity was intended and expected, its immediacy and magnitude were not. The effect was a dramatic change in the number and nature of crew positions in the fisheries. With each vessel employing approximately 6 crewmembers, under the rationalization program the Bristol Bay red king crab fishery employs approximately 975 fewer crew, while the Bering Sea C. opilio (snow crab) fishery employs approximately 675 fewer crew. Because of the relatively small allowable catches in the fisheries in years leading up to the rationalization program, most crew worked only a month or so in the crab fisheries. Crew typically worked other jobs (including crew jobs in other fisheries) throughout the remainder of the year. In addition, since crew pay was (and is) typically based on vessel revenues, in the derby fishery, pay was subject to risk, as vessel breakdowns or poor catches could leave crew with little or no compensation. The relatively short tenure of crab crew jobs was attractive to many crew, particularly those with other employment who were able to take short periods away from that other employment to fish crab. Notwithstanding the relatively short term of these jobs, for many crew, crab fishing jobs were reported to have provided important contributions to annual income. Particularly in the case of crew from remote communities with few job opportunities, replacing income from lost crab crew jobs is reported to be problematic.

Overall, data and anecdotal reports suggest that the crew positions remaining in the crab fisheries are more stable and better paying under the rationalization program. Crew typically know the amount of shares that will be harvested and terms of payment prior to beginning fishing, allowing them to project income for a season. Prior to implementation of the rationalization program, compensation hinged entirely on success in the limited access derby fishery. The consolidation of catch under the rationalization program has reportedly allowed some crew to rely exclusively on crab fishing for their incomes. Other crew are reported to work on the crab vessel in other fisheries or tendering catches from catcher vessels to processors, relying on employment from their crab fishing vessels for all of their income. Vessel owners hiring crew generally give priority to crew willing to work in all crab fisheries that the vessel participates in (and non-crab fisheries or tendering, if the vessel engages in those activities). These preferences have led to changes in crew composition, as some former participants are unwilling to give up other employment to work exclusively for a crab vessel. Maintaining a steady crew, however, can greatly simplify vessel management, reduce hiring costs arising from high turnover, and improve efficiency and safety, as crew become more familiar with the vessel's operation and fellow crew. Although these benefits arise for most crew remaining in the fishery, many crew have lost the relatively high paying, short term work in the crab fisheries since implementation of the program.

The Council undertook two reviews of the program in its first three years and has adopted several amendments to address concerns that have arisen. Another review is scheduled later this year. One amendment frees shares initially allocated to captains from the landings limitations of processing shares, to increase harvest flexibility and allow active crew to receive greater value for their share holdings. Amendment packages have also been initiated to consider measures to strengthen community protections and increase the portion of the harvest share pool available only to active crew. Although these reviews and modifications may not allay concerns of all stakeholders, they demonstrate the Council's receptiveness, willingness, and commitment to consider changes to address program shortcomings.

Bering Sea and Aleutian Islands non-pollock groundfish trawl catcher processor cooperatives (Amendment 80)

In 2008, NOAA Fisheries implemented a Council approved cooperative program for the Bering Sea and Aleutian Island non-pollock groundfish trawl catcher processor sector, commonly known as Amendment 80. The fleet governed by this program participates in a variety of multispecies groundfish fisheries. Most vessels in the fishery have limited factory space and processing capability, producing only whole and "headed and gutted" frozen fish. These factors, in concert, led to disproportionately high discards rates in this fleet, as vessels discarded fish that were deemed to have no or very limited market value, given the processing constraints. To address this discard problem, the Council developed a "groundfish retention standard," which imposes stepwise increases in required retention over a period of years. In tandem with this retention standard, the Council developed the Amendment 80 cooperative program. The program allocates shares to vessels, which can then access exclusive annual allocations by joining a cooperative. The co-

operative program allows vessels to manage (and meet) retention requirements in the aggregate at the cooperative level. Cooperative management typically increases communication among members, which should facilitate the exchange of information concerning fishing patterns and practices and their effects on catch composition, and consequently retention. In addition, application of retention standards at the cooperative level allows member of a cooperative to develop contracts defining terms under which vessels with relatively high retention rates derive a benefit from that retention from vessels with relatively low retention rates. The intended outcome is a system in which all vessels have an incentive for retention improvements. The exclusive share allocations under the cooperative program allow participants to slow fishing effort without losing a share of the allowable catch, refocusing that effort toward retention improvement. Exclusive share allocations also provide an opportunity for improved production efficiency, which should ease the cost burden associated with complying with the retention standard.

Two years into this program, most participants believe that the program has provided much of the expected benefits. Despite this consensus, the Council is currently considering two amendments to further improve the program. One amendment would modify cooperative formation standards (i.e., minimum membership requirements for cooperative formation) to more equitably distribute of negotiating leverage. The second amendment would allow for vessel replacement, which could improve safety, retention capability, and economic efficiency in the fleet.

Central Gulf of Alaska rockfish pilot program

The Council developed the Central Gulf of Alaska rockfish pilot program after the Secretary of Commerce received a directive from Congress to establish, in consultation with the North Pacific Council, a two-year pilot program for management of the directed fisheries for three rockfish species in the Central Gulf of Alaska—Pacific ocean perch, northern rockfish, and pelagic shelf rockfish. Congress later extended the program's duration to five years. Prior to implementation of the pilot program, these rockfish fisheries were prosecuted by trawl catcher vessels and catcher processors as a derby fishery during the first few weeks of July. These vessels all participate in other fisheries throughout the year. Landings from the rockfish fisheries often conflicted with landings from the summer salmon fisheries that are prosecuted at the same time. This conflict often led to delays in offloading, resulting in a decline in the quality of products. The program is intended to eliminate the race for fish and also allow participants to time fishing effort to avoid processing conflicts with other fisheries. These changes were intended to achieve improvements in product quality and value, provide stability to processing labor force, reduce bycatch, and improve habitat protections.

Based on the Congressional directive, stakeholder input, and public testimony, the Council developed a cooperative management program under which historic participants receive allocations of those three rockfish species, along with allocations of other important species typically harvested in these directed rockfish fisheries (including Pacific cod and sablefish). Shares are allocated to licenses, holders of which may access exclusive annual allocations by joining cooperatives. In the catcher vessel sector, each harvester is eligible for a single cooperative that must associate with the processor to which the harvester delivered the most landings to during a specific time period. Eligible vessels that choose not to join a cooperative may fish in a limited access fishery without an exclusive allocation. Although this constraint on cooperative membership choices is very rigid, the Council believed that the cooperative/processor associations that would arise would achieve the program's objective of reducing processing conflicts with other fisheries and that, given the limited life of the program and potential for future modification, any competitive advantage arising under the structure would not be unduly exploited. The distribution of landings across several months in each of the first three years of the program suggests that the structure has facilitated the redistribution of landings to avoid those processing conflicts. Anecdotal reports also suggest that this redistribution has been used to reduce down time at processing plants, allowing for steadier employment of processing crews. Although processors made efforts to expand markets for higher value products in the first year of the program, product prices have not risen appreciably under the program. While some in the catcher vessel sector have been quick to suggest that the cooperative/processor associations of the program have diminished any incentive for quality improvements, the challenges associated with the development of new product markets in a down economy should not be overlooked.

Improved habitat protection and reductions in bycatch under the program are also notable. Since implementation of the program, habitat protection improvements have arisen as a substantially greater share of the fishery is prosecuted with "semi-pelagic" gear, which has less (and less forceful) contact with the seabed than the

bottom trawl gear traditionally used in the fishery. In addition, bycatch reductions are achieve through a few aspects of the program's design. Discards are prohibited for all allocated species (with the important exception of halibut, as halibut retention is not permitted in any trawl fishery). Allocations of halibut under the program are strict limits on the catch of halibut. Any cooperative that has fully caught its allocation of halibut is required to stop fishing. To create an incentive for greater reductions of halibut catch in the fishery, halibut remaining at the end of the rockfish fishery in the November is reallocated to other trawl limited access fisheries. Under this system of binding halibut allocations, accompanied by the incentive of the reallocation, the fishery has cut halibut mortality per ton of directed rockfish to less than half the level of the best year preceding program implementation. The Council is currently considering options to reallocate less than 100 percent of the unused halibut allocation, in a manner that would maintain the incentive to avoid halibut bycatch while reducing total trawl fishery halibut mortality. The overall structure of the program has led some fishermen to acknowledge a wholesale change in their fishing objectives under the pilot program. Under limited access management, their objective was simply to "out fish" others in the fishery to maximize catches of the three directed species, while supplementing their income with allowable retention of other valuable non-directed species (such as Pacific cod and sablefish). Under the pilot program, their primary objective is to time fishing to accommodate both processor delivery schedules and personal time demands. When fishing, their objective is to fully harvest the various retainable species allocations as agreed with the cooperative and scheduled with the processor with minimal halibut bycatch. Because the pilot program is scheduled to expire at the end of the 2011 season, the Council is currently considering alternatives to perpetuate catch share management of the fishery.

Conclusion

Our experience in the North Pacific indicates that catch share management should be undertaken only as specific fishery and management needs dictate, rather than mandated through sweeping and general initiatives. In each case in which the North Pacific Council has advanced catch share management, the program was shaped, through an arduous, protracted process, to serve the specific needs of the fishery and the Council's management objectives for that fishery. Each program was developed against the backdrop of existing annual catch limits. In one case in particular—the development of a comprehensive "rationalization" program for all Gulf of Alaska groundfish fisheries—the Council determined after preliminary analysis and deliberations that its efforts to develop a catch share program should be abandoned for a variety of practical, social, and other reasons. These fisheries all continue to be managed under strict catch limits, with a variety of other management measures, including sector allocations for some species. The Council similarly retracted its decision to advance a catch share program for the halibut charter fishery it manages and has instead advanced a variety of other management measures in that fishery, including separate commercial and charter annual catch limits, a moratorium on entry to the charter sector, bag limits, and limited opportunities for charter operators to acquire IFQ from the commercial sector. The Council is also considering a variety of other long term measures for the charter halibut fishery. The Council's decision to pursue management measures other than catch shares in these fisheries reflect its view that some fisheries may not lend themselves to catch share management.

In all of the catch share programs in the North Pacific, program elements reflect a balance of competing interests of those who rely on the fisheries, including vessel owners, processors, crew, communities, environmental interests, and the public. The resulting programs establish a balance of conservation and social goals against economic efficiency gains. Beyond the implementation of program allocations and mechanical regulations governing their use, monitoring and enforcement measures were adapted with the change to catch share management. Even applying an abundance of care, indirect and unanticipated effects arose in all of these programs. Consequently, the Council has (and must continue to) attend to unanticipated effects and adopt mitigating measures. In addition, several important management concerns (such as habitat and endangered species protections) are unlikely to be directly addressed by catch share management and require independent management measures. Catch shares management of a fishery may allow for new adaptive management measures that might be unworkable under other management programs. In addition, the flexibility provided to participants by catch share management may ease the burden associated with complying with those management measures.

Over the past 15 years, catch share programs have become an important part of the fishery management regime in the North Pacific. By using the authority to es-

tablish catch share programs with discretion, the North Pacific Council has developed an array of programs that serving a variety of interests in the fisheries it manages. The Council looks forward to advancing its management of North Pacific fisheries and appreciates the authority entrusted to the Council by Congress under the Magnuson-Stevens Act (including the authority to develop catch share management, as appropriate).

Response to questions submitted for the record by Mark Fina, Ph.D., Senior Economist, North Pacific Groundfish Management Council

Questions from Chairwoman Madeleine Z. Bordallo (D-GU)

1. How have different catch share designs had different impacts on Alaska's fisheries and fishers? How are the fisheries and communities doing after catch shares?

Response: In the halibut and sablefish IFQ program, certain shares may only be acquired by individuals and must be actively fished by the share holder. These components have contributed to maintaining the owner-operator character of that fleet. In Bering Sea pollock cooperative program and the crab program (both of which have historically been more industrial fisheries) no such requirement exists. In these fisheries, many vessel owners oversee business operations and hire skippers to operate their vessels. In the pollock cooperative program and the crab program, historic processing dependencies are recognized by cooperative/processor associations and the allocation of processing shares, respectively. These processor provisions have led to increased coordination of harvesting and processing in these two fisheries that generate primarily highly processed products (and have limited opportunities for fresh product markets). The halibut IFQ program includes no processor provisions. Allowing this redistribution of landings both among processors and geographically (to locations with better access to transportation hubs) is believed to have contributed to the expansion of the fresh fish market in that fishery.

The fisheries that are subject to catch share management are all prosecuted under sustainable allowable catch limits that have contributed to the health of the fisheries. All other fisheries in Alaska are also prosecuted under sustainable allowable catch limits. The fisheries under catch share management are believed to be among the most lucrative in this region, in part, due to the efficiencies afforded by catch share management and the endowment of the initial allocation.

Communities, in general, have benefited from the stability provided by catch shares management, although exceptions do exist. In some cases, fleet consolidation has reduced the number of vessels in some Alaska ports, vessels that have remained in these fisheries typically spend more time in those ports, providing a more stable contribution to the local economy. Under the previous derby management, many vessels spent brief periods in these ports, resulting in intense spikes in economic activities, which were followed relatively long periods of lower levels of economic activity. In some fisheries, landings have been geographically redistributed, with a resulting shift in economic activity and fish tax revenues between communities. In other fisheries, the extent of this redistribution has been limited by both regional and port landing requirements and processor provisions that have indirectly maintained the geographic distribution of landings. In the halibut and sablefish fishery, some residents of small communities proximate to the fisheries have either divested of their share holdings or moved from those small communities. These actions of small community residents have reduced the overall access of those small communities to the fisheries. The Council established a community purchase program to address this situation.

2. Is it true that lease fees are as much as 70% of the landed value in some Alaskan fisheries? Are there ways to create a more equitable balance between fishing and non-fishing share owners?

Response: In some instances, lease fees for quota are reported to have reached as high as 70 percent of the landed value. Although some observers might suggest that these lease rates reflect disproportionate negotiating leverage between active fishermen and inactive share holders, the lease rates are largely a reflection of the value of the quota (which is paid in the lease fee) and the costs of harvesting that quota (which is retained by the active harvester). To the extent that these private lease rates are viewed as inappropriate, a variety of measures could be considered, which will differ depending on the policy objective. For example, if the objective is simply to ensure that active persons hold quota in a fishery, owner-on-board or other active participation requirements for share holders could be adopted. While such a provision would ensure that only active participants hold shares, recipients of the initial

allocation who elect to divest are likely to receive a substantial windfall for the sale of their shares. In other words, it is the initial allocation that determines the distribution of benefits (regardless of these recipients lease their annual allocations or divest of their allocations altogether).

3. In the crab catch share program in Alaska, binding arbitration was included to resolve price disputes. Can you briefly summarize why this is necessary and if it is working as intended?

Response: Under the crab program 90 percent of the annual share allocations to catcher vessel owners are required to be delivered to a processor holding individual processor quota (i.e., annually allocated processor shares). These two share types are allocated in equal amounts, so each landing must be supported by individual fishing quota and a matching amount of individual processing quota. While some harvesters may have a variety of choices of which holder of individual processing quota to deliver their catch to, near the end of the matching of these share types, remaining harvesters will be left with little (or no) choice of who to deliver their landings to. Prior to the catch share program being implemented, harvester/processor standoffs delayed fishing. The arbitration program is intended to prevent similar standoffs, particularly those arising from the limit on market choices arising under the program. The arbitration system has prevented standoffs that might delay fishing under the program. In addition, the system is believed by most to have effectively resolved any problem of disproportionate market leverage that might arise out of the market limitations of processing shares. Most participants (particularly those in the harvest sector) believe that the arbitration system has resulted in fair pricing for landings in the fishery.

4. What analysis has the Council conducted on the impacts of allocating harvest shares to processors in the Gulf of Alaska rockfish fishery? How will the Council address concerns that processors, depending on their allocation, may be able to influence dockside prices?

The current analysis of the rockfish program alternatives considers the effects of the allocation of harvest shares to processors on both the future profitability of harvesting operations and the use of those allocations by processors to affect dockside prices. It is clear, and anticipated, that some processors will use these allocations in the negotiation of delivery terms (including landings prices) with harvesters. The Council will need to determine the portion of the harvest share pool allocated to processors (should the Council elect to make such an allocation) to maintain a fair distribution of negotiating leverage between harvesters and the processors receiving those allocations.

Questions from Republican Members

1. Your testimony details a number of catch share programs in the North Pacific. How many fisheries are managed under what are considered catch shares? Are all (or any) of the North Pacific's catch share plans alike? Can you explain a few of the differences?

Response: Currently, 5 catch share programs are in place in the North Pacific, which apply to 38 different directed species/area allocations (each of which might be considered a target fishery). While programs may share similar elements, no two programs are alike. The halibut and sablefish IFQ program includes relatively strict owner-on-board requirements, leasing prohibitions, and vessel length designations on shares to maintain the owner-operator, small vessel character of those fisheries. The Bering Sea pollock cooperative program includes processor/cooperative associations that are believed to be important to the coordination of harvesting and processing activities in that fishery. The Bering Sea and Aleutian Island crab program includes regional landing requirements that are believed to be important to maintaining the geographic distribution of landings. The Amendment 80 program in the Bering Sea includes several allocations of cooperative bycatch quota and a "groundfish retention standard" to ensure that bycatch limits in that fishery are not exceeded and that discards do not exceed acceptable standards, respectively. The Central Gulf of Alaska rockfish pilot program includes the allocation of important non-rockfish species historically harvested in the fishery to maintain the economics of the fishery and establish an appropriate limit on the catch of those valuable species.

2. Can you tell us how long it took to develop the halibut/sablefish plan? How long did it take to develop the Bering Sea crab plan?

The Council spent several years deliberating means of addressing problems in both the halibut and sablefish fisheries and the Bering Sea and Aleutian Islands

crab fisheries, prior to beginning direct development of catch share management programs for those fisheries.

The Council spent several years debating various limited entry measures in the halibut fishery, prior to abandoning those efforts, and subsequently, taking up the development of the IFQ program. The Council began direct development of the halibut and sablefish IFQ program in 1987. The Council took final action adopting the program in December of 1991. NOAA Fisheries implemented the program in 1995.

The Council began direct development of the Bering Sea and Aleutian Islands crab rationalization program in 1999 after receiving testimony from an industry workgroup that proposed the development of the rationalization program to address a variety of concerns in the fishery. The program was then defined through Council deliberations over a series of meetings with input from a number of stakeholder committees, culminating with its final adoption by the Council at its June 2004 meeting. Various aspects of the program were defined throughout this period, beginning in June of 2002 and continuing until the Council's final action adopting the program in June of 2004.

3. Can you tell us how many times these plans have been amended?

The Council has adopted several amendments to the halibut and sablefish program, including 5 omnibus amendment packages that each incorporated a variety of program changes.

The Council has adopted approximately 10 amendments to the crab program, to date. The Council is also currently considering several amendments to the program.

4. Do you know what 5 fisheries NOAA thinks could be managed under a catch share plan by FY 2012?

Response: No.

5. Other witnesses express concern about community impacts and the effect on new entrants. Can you describe some of the components of the North Pacific plans that address these concerns?

Response: In the crab program, permanent regional landing requirements and temporary community landing requirements apply to most catcher vessel harvest shares and processing shares to limit the geographic redistribution of landings. In addition, community entities hold rights of first refusal on certain transfers of processor shares. In both the crab program and the halibut and sablefish IFQ program, community entities may purchase harvest shares. In the crab program substantial portions of the harvest share pool have been purchased by community entities. The Council is currently exploring the reasons for few purchases of halibut and sablefish IFQ purchases by community entities. In both the Bering Sea pollock cooperative program and the Gulf of Alaska rockfish program, processor/cooperative associations and limits on processor entry have limited the redistribution of landings among communities.

All programs include excessive share limits intended to limit consolidation of share holdings and fishing activity. These measures might indirectly increase entry opportunities. Vessel length categories in the halibut and sablefish IFQ program are intended to reduce consolidation of catch on large vessels. In addition, to improve entry opportunities in the halibut and sablefish fisheries, the Council developed the "block program" that prevents persons from consolidating holdings of small allocations of shares. A loan program, funded with cost recovery funds, is also included in the halibut and sablefish IFQ program to increase entry opportunities. A similar loan program is incorporated into the crab program, but that loan program has yet to be implemented. Entry to the crab fishery is also aided by the creation of a separate class of shares available only to persons who meet active participation requirements. The Council is considering increasing the portion of the harvest share pool subject to these requirements from 3 percent to as high as 10 percent.

6. How do you view the idea of Mr. Bachus that 10-25 percent of every catch plan be mandated for communities?

Response: While community allocations might be appropriate in some fisheries and programs, in some cases, those allocations could have undesirable effects, and therefore, should not be mandated. For example, in a fishery that is fully utilized, community allocations may jeopardize the operations of current participants who depend on the fishery (including some residents of coastal communities). In these instances, it may be possible to mitigate (or prevent) harmful impacts on communities through other measures, such as regional and port landing requirements or limits on transfers and consolidation of harvest shares.

7. Can you tell us why the Council backed off from the Gulf rationalization plan? Is this an example of where council flexibility allowed you to change direction when it was clear that the fishing industry did not support the direction the Council was taking?

Response: The Council elected not to advance the Gulf rationalization program for several reasons. As a comprehensive program, the program would have regulated all gear types and fisheries in the Gulf. The challenge of developing a single system to address the variety of interests and needs in these different fisheries was viewed as insurmountable. The inability to develop a comprehensive program addressing the variety of stakeholder interests led to opposition to the program from some of those stakeholder interests.

8. Are you concerned that NOAA might push for a Gulf rationalization plan? How would this be viewed by the fishermen and the Council?

Response: I do not believe that NOAA will inappropriately pressure the Council to develop a rationalization program for the Gulf. Efforts to inappropriately advance any management would be frowned on by both the Council and fishermen.

9. NOAA seems to think that catch shares are the only answer for overfished fisheries. Do you agree?

Response: Establishing annual catch limits and a management and monitoring program that ensures that those limits are not exceeded is likely the most effective means to address overfished fisheries. These limits can be established with or without catch share management.

10. Did the halibut/sablefish ITQ plan include any community provisions when first implemented? If not, when was that added and why was it added?

Several components of the halibut and sablefish IFQ program (as initially adopted) are intended to provide some level of protection to community interests. These including vessel length categories, owner-on-board requirements, and prohibitions on leasing, all of which are believed to aid small vessel fishermen and residents of remote coastal communities, whose participation in the fisheries is more likely as active, small vessel fishermen. In addition to these indirect measures, in 2002, seven years after implementation of the IFQ program, Council adopted the community purchase program amendment, which directly authorizes community representatives to acquire shares in the program. NOAA Fisheries implemented that program in 2004.

11. Concern has been raised that there is not enough coordination between councils and that some councils are not learning from the mistakes made by other councils in developing catch shares—in particular that the Pacific Council may not have learned from some of the mistakes made by your council. Do you agree with this concern?

Response: I was contacted periodically by the Pacific Council staff during the development of their catch share program, but did not participate directly in that process. Additional coordination among Councils is achieved through Council Chair meetings and workshops on a variety of specific issues. I do believe that additional coordination among regional and Council staff would be beneficial to the development of all management programs (including catch share programs). If such coordination is developed, it is important that it facilitate direct communication across the regions, rather than through intermediaries that have no (or less) direct experience with the development of management actions.

12. In your experience, are there any particular things that you believe MUST be in all catch share plans (community protections, allowance for new entrants, etc.)?

No. In the development of a catch share program, a Council should be required to consider a variety of factors (such as entry opportunities and community protections) and develop a program that adequately addresses those needs. A variety of means to achieving those ends are available. The appropriateness of these various measures may differ across fisheries and provide different results. For example, allowance for new entrants may do little to facilitate full scale entry to a fishery, if persons fishing that allowance have no meaningful opportunity to acquire shares in the main catch share program. Alternatively (and depending on the circumstances), ensuring that small allocations are available for acquisition could facilitate a more meaningful entry to the fishery. Likewise, a variety of measures are available to protect community interests, including community allocations, regional and port

landing requirements, and limits on share transfers. The appropriateness (and effectiveness) of these measures may vary across fisheries.

13. In your experience, in a fishery where there is both a recreational component and a commercial component, is it possible to develop a catch share program that will allow the traditional percentage split between the sectors to be altered as the fishery is rebuilt? For example, if a fishery is split 50/50, as the fishery rebuilds and the biomass increases, could anything above a specific biomass or TAC level be split in a different proportion? Are there any examples that you can think of where this has already been done?

Yes, it is possible to alter the distribution of the total allowable catch (or annual catch limit) between sectors as the annual catch limit changes. A few examples of those distributions are present in the North Pacific.

In the halibut fishery, an estimate of non-guided (non-charter) recreational catch is deducted from the annual catch limit prior to allocations to the charter (guided recreational) sector and commercial IFQ program. This non-guided recreational fishery set aside is a relatively small portion of the annual catch limit in the fishery. The tonnage of that allocation is not affected by changes in the annual catch limit. In addition, the new catch sharing plan for the halibut fishery will also change the percent of the annual catch limit available to the charter fishery as the annual catch limit changes. At annual catch limits below 5 million pounds, the charter sector is allocated 17.3 percent of the annual catch limit; at annual catch limits of 5 million pounds or above, the charter sector is allocated 15.1 percent of the annual catch limit. So, at low annual catch limits, the charter sector gets a larger share of the fishery, with more of the burden of downward annual catch limit changes borne by the IFQ fishery. As the annual catch limit increases, the IFQ fishery will receive a greater share of the increase. Similarly, the percentage of the annual catch limit of certain species allocated to the Amendment 80 catch share program fluctuates with the annual catch limit.

In addition, in most of the catch share fisheries in the North Pacific, set asides for incidental catches in fisheries that are not subject to catch share management are established prior to any allocation to the catch share fishery. Many of these set asides are a small part of the total allowable catch and many are unaffected by changes in the total allowable catches.

Ms. BORDALLO. Thank you very much, Dr. Fina, for sharing your experiences with catch shares in the North Pacific.

Now it is my pleasure to introduce Dr. Rosenberg. Please begin.

STATEMENT OF ANDREW A. ROSENBERG, Ph.D., SENIOR VICE PRESIDENT FOR SCIENCE AND KNOWLEDGE, CONSERVATION INTERNATIONAL

Dr. ROSENBERG. Madame Chairwoman and members of the Subcommittee, thank you very much for the opportunity to testify today. I am Andrew Rosenberg, Senior Vice President for Science and Knowledge at Conservation International, and I am Professor of Natural Resources at the University of New Hampshire. But I should say that I am not speaking on behalf of either of my organizations today. Conservation International has no position on this issue. I am speaking from my experience in fisheries over the last 25 years.

Catch shares are a general term for fishery management strategies that allocate a specific portion of the total allowable catch to individuals, cooperatives, communities, or other entities, and the concept isn't new. Nor is the controversy.

The controversy is so intense because catch shares are ultimately about allocation, allocation of fishing privileges on a public resource to different users. In fact, most fishery management controversy is about allocation between fleets, gears communities, areas, and so on.

The increased interest has been prompted in part by ongoing problems of overfishing that, despite years of difficult and time-consuming management efforts, persist in many fisheries in the U.S. and internationally. The requirements of the Magnuson-Stevens Act to end overfishing and rebuild overfished stocks as soon as possible is exactly the right thing to do, and the setting of annual catch limits is the key to ending overfishing.

There are methods for setting such limits in a sensible, proactive manner, even when data are incomplete or limited. I would refer you to a range of publications on that topic.

For the purposes of this hearing, I would note that in my opinion, the setting of annual catch limits and the implementation of catch share systems do not necessarily have a greater data and information requirement than other fishery management approaches. The requirement is there for any fishery management approach, not just catch shares.

Catch share systems can increase the value of the catch, reduce the cost of fishing, thereby increasing profitability, and can engender a greater sense of resource stewardship in the fishery because of the durability of fishing opportunities for participants.

One of the greatest potential benefits for the catch share system is that in principle, many of the decisions about fishing tactics are internalized to the fishery, rather than by regulation. All of these benefits have been shown to occur in some fisheries, domestically and internationally, and I think many of those benefits are shown in the North Pacific fisheries we just heard about.

In my observation, those participating in catch share systems usually become strong supporters of the approach. But the corollary is that those who opt out or are left out usually seem to assign all problems of the fishery to that same catch share approach.

In reality, catch share systems can have substantial benefits, but may not suit all situations, nor will they suit all participants.

Careful design of catch share programs is critical to their success, and many of the potential negative impacts, such as excessive consolidation and decline of traditional fishing communities, can be minimized or avoided by incorporating specific policies, if done carefully.

Nevertheless, the transition to catch share systems represents fundamental change from a long tradition of race to fish to get dedicated privileges, to catch a specific amount of fish, from competition to cooperation, from maximizing fishing opportunity to maximized profits, to minimizing costs to maximized value and profit.

In deciding whether a catch share system is appropriate, key design elements include setting of goals, including social and economic goals; setting the comprehensiveness of this issue, of the system—does it cover the entire fishery; allocation and transferability of shares of the catch; monitoring, reporting and enforcement policies, communication and decision-making processes.

These elements are challenging for managers and stakeholders to address, but are very much resolvable by specific policies that have been developed for existing catch share programs. Of course, new policies can be developed as we gain additional experience.

In any particular program, however, the choices are critical because fisheries vary so much, one to the other. And those choices will result in strong or weak programs to achieve the goals, or simply engender more controversy.

I would simply refer to a few key points in design structure, and then leave you to my written testimony for other details.

While the Magnuson-Stevens Act sets broad national goals, the specific goals within those national goals are going to vary greatly from place to place. And managers need to work with stakeholders to identify biological, ecological, social, and economic goals to shape catch share systems. You can't leave out that goal-setting step.

In a transition strategy, in order to meet that set of goals, there needs to be very careful consideration to the design, rules, fees, eligibility requirements, and transferability requirements—and to funding transition costs into a new system. Public funding of the administration of a system is critical to the evolution of that system into an effective way to prevent overfishing, as well as to manage the fishery.

Finally, monitoring and reporting and enforcement are critical to catch share systems, but that is true of other fishery management systems, as well. In principle, much of that monitoring enforcement requirement can be done by sectors, shares, or catch share holders themselves; therefore, not making it solely a governmental program.

The agency can, in that situation, be in a position of working with fishermen in monitoring and enforcement, as opposed to focusing on the enforcement side.

Thank you very much, Madame Chair. I would be happy to answer questions.

[The prepared statement of Dr. Rosenberg follows:]

Statement of Andrew A. Rosenberg, Ph.D., Senior Vice President for Science and Knowledge, Conservation International

Madam Chairwoman, Thank you and the members of the subcommittee for the opportunity to testify today concerning the design and implementation of catch share programs for the management of fisheries. I am Andrew A. Rosenberg, Senior Vice President for Science and Knowledge at Conservation International and a Professor of Natural Resources and the Environment at the University of New Hampshire. I was a member of the U.S. Commission on Ocean Policy and a current member of the Joint Ocean Commission Initiative. I have been involved in the science and management of ocean resources, particularly fisheries, throughout my career. I served as a scientist, then Northeast Regional Administrator and Deputy Director of NOAA Fisheries during the 1990's before moving to the University of New Hampshire.

Catch shares are a general term for fishery management strategies that allocate a specific portion of the total allowable catch to individuals, cooperatives, communities, or other entities. Some fisheries across the nation, and indeed internationally, employ catch share systems for a range of commercial fisheries. The concept of catch share systems is not new, though the approach has used different labels at various times. Nor is the controversy over catch share systems new. In fact, from the one sentence description of catch share systems that I just gave, it is clear why the controversy occurs and why it is so intense and durable I might add; because catch shares are ultimately about allocation of a portion of the catch or fishing privileges. In fact most fishery management controversy is about allocation; between fleets, gears, communities, areas and so forth.

The increasing interest in catch share systems has been prompted in part by ongoing problems of overfishing that, despite years of difficult and time consuming management efforts, persist in many fisheries in the U.S. and internationally. The requirements in the Magnuson-Stevens Act to end overfishing and rebuild overfished stocks as soon as possible is exactly the right thing to do, but the manage-

ment measures needed to do so are difficult for managers, fishermen, and all stakeholders to come to grips with. It is the requirement to set annual catch limits that is the key to ending overfishing. The catch limits themselves are often controversial because restricting the size of the catch intensifies the difficulties of allocation.

There are methods for setting such limits in a sensible, proactive manner even when data are limited and I would refer you to reports I have co-authored on this topic for further information. For the purposes of this hearing I would note that in my opinion, the setting of annual catch limits and the implementation of catch share systems do not necessarily have a greater data and information requirement than other fishery management approaches. In other words, it is almost always helpful to have more stock assessment and other fishery information, not just for annual catch limits and catch share approaches. But the lack of full information doesn't prevent or obviate the need for moving forward with better more effective management approaches.

This hearing is about catch shares and why such a system may, or may not, help address problems in fisheries management. After all, if a catch limit is set and adhered to fully, then overfishing should no longer occur. The role of catch shares is not to end overfishing but to address allocation, and more importantly, catch share systems can increase the value of the catch, reduce the costs of fishing, thereby increasing profitability, and can engender a greater sense of resource stewardship in the fishery because of the durability of fishing opportunities for participants. One of the greatest potential benefits of a catch share system is that, in principle, many of the decisions about fishing tactics are internalized to the fishery, rather than by regulation. That is, fishermen make decisions on tactics and regulations in principle can be simplified to those that address annual catch limits rather than fishing tactics. All of these benefits have been shown to occur in some fisheries domestically and internationally.

In my observation, those participating in catch share systems usually become strong supporters of the approach. But the corollary is those that opt out or are left out usually seem to assign all the problems of the fishery to the catch share approach. In reality, catch share systems can have substantial benefits, but may not suit all situations nor will they suit all participants. I think this simple statement is factual and is clear in the NOAA draft catch share policy.

Careful design of catch shares programs is critical to their success and many of the potentially negative impacts, such as excessive consolidation and decline of traditional fishing communities and methods, can be minimized or avoided by incorporating specific policies. Nevertheless, transitions to catch shares systems represent fundamental change—from a long tradition of the race-to-fish to dedicated privileges to catch specific amounts of fish; from competition to cooperation, from maximizing fishing opportunity to maximize profit to minimizing costs and value to maximize profit. Allocation of the available catch among fishermen often leads to impassioned debate about what is "fair" among members of industry and managers.

Design Considerations for Catch Shares Programs

In deciding whether catch shares are appropriate for particular fisheries several key elements requires careful consideration. These include aspects of initial program design including goals of the program including social and economic considerations and its comprehensiveness; allocation and transferability of shares of the catch; monitoring, reporting, and enforcement policies; communication and decision making processes. These elements are challenging for managers and stakeholders to address, but are very much resolvable via specific policies that have been developed in existing catch shares programs around the U.S. and internationally. In any particular program however, the choices are critical and will result in strong or weak programs that will achieve the goals or simply engender more controversy.

Goals and objectives: Setting clear and measurable goals and objectives to guide management is critical to the success of any fisheries management system, including catch shares. While the Magnuson-Stevens Act sets broad national goals, goals for specific regions and fisheries often vary greatly from place to place. During transitions to catch shares, stakeholders often express concern that the goals of programs are unclear. Managers should work with stakeholders to identify measurable biological, ecological, social, and economic goals and objectives at appropriate region- and fisheries-specific scales and articulate how catch shares programs can meet them. In addition, if some of the catch is not allocated but remains in a common pool, i.e., in a given fishery if the catch share system is not comprehensive covering the whole fishery, then the rules for the common pool must be designed such that the conservation program is not undermined such that the catch limits cannot be adhered to. This will very likely mean that the regulations for the common pool, recreational or commercial, will need to be quite restrictive compared to those for ves-

sels in the catch share systems. It is not surprising that if only a partial system is implemented then those not in the system will be in conflict with those in the share system and potentially the benefits of a catch share system will dissipate. However, a partial system may still be better than the alternative, even with partial benefits.

Initial allocation: One of the greatest challenges decision makers and stakeholders face in transitioning to catch shares is determining the initial formula for allocation of the TAC because the decision is grounded in varying interests' ideas of what is fair. What seems fair to any one group of fishermen will often seem unfair to others. Key considerations include how the decision will be made, what the formula will be, how catch history or fishing capacity will be calculated, how errors in government records will be corrected so that fishermen receive accurate allocations, what kind of appeals process will be put in place, and which kind of entities will be allocated quota shares.

Transition strategy: Transitioning to any fishery management system that confines harvesting to sustainable catch limits can be initially difficult for fishermen. However, a well-designed and executed transition strategy can ease the burden of change for fishery participants and managers alike. Transition strategies can include limits on quota transfers in the early years of implementation, public funding for administration of catch shares until industry returns to sufficient profitability to shoulder these costs, and step-wise evaluation of biological, ecological, and socioeconomic impacts that prompt improvement in programs over time.

Harvesting strategies and policies: Maintaining sustainable harvest rates is not the only requirement for protecting and restoring ecosystem health, but also minimizing impacts of harvesting on habitat and bycatch of nontarget species. For this reason, habitat and gear considerations must be taken into account in catch shares systems. Catch shares programs should include requirements and incentives related to use of selective harvesting strategies and gear. If the TAC is applied to catch—instead of landings—incentives to reduce bycatch through gear selectivity will be built automatically into the system. A caution here is that the strategies for addressing ecosystem issues should not result in dissipating the benefits of catch share systems more generally. The same principle of allowing flexibility in fishing tactics if the conservation outcomes are achieved must be maintained.

Transferability of quota: Allowing transfers of quota via sale, trade, or lease among fishery participants is critical for economic efficiency, a key goal for most catch shares programs. However, there are potential downsides to providing unlimited transferability that are often of major concern to those interested in protecting small-boat fleets and traditional fishing communities. These impacts can include excessive consolidation and inflated quota purchasing and leasing prices that can undermine the ability of independent and small-operation fishermen to compete. In order to meet social and economic goals, important considerations in program design include the rules, fees, and eligibility requirements placed on transferability of quota shares at vary points of maturity of catch shares programs. These issues can be dealt with but it is very much harder to do so after the implementation of the system than as part of the initial implementation.

Adaptive management set-asides: Setting aside part of the TAC for adaptive management can provide decision makers flexibility to take action to address unintended consequences without having to reduce shares of fishermen's catch mid-season. Managers need to decide the appropriate level of set-aside for this purpose and for how long they should hold that quota into the fishing year before releasing it to harvesters. In addition to setting aside quota for adaptive management, managers should consider providing incentives for fishermen to engage in cooperative research. Cooperative research is an important way for fishermen and scientists to learn from one another, gain better understanding of fisheries, and provide costs savings for scientists and extra income for fishermen.

Monitoring, reporting, and enforcement: Reliable catch monitoring and reporting are critical for the success of any fishery management system. For catch shares programs, where harvesters are held accountable for staying within strictly defined catch limits, enforcement must rely on collective responsibility of the group holding quota. In other words, if any member of the group does not adhere to the rules all members of the group must have some accountability. Choosing appropriate monitoring and reporting levels, methods, and technologies should be partly decided on statistical grounds and partly decide upon perception of the monitoring program. The statistical issues are usually fairly clear with a certain level of monitoring or sampling resulting in a certain level of confidence in the results. The perception issues are much more difficult such that participants and the public have confidence in the system. Further, determining who will pay the administrative and infrastructure costs is an important decision that can make or break a catch shares program.

Adequate and fair enforcement will also be critical for meeting program goals and improving relationships among managers and fishermen. Furthermore, if there is a common pool portion of the fishery then enforcement will be complicated because two sets of rules will be in operation. Ensuring that participation in the fishery as a whole is contingent upon following the rules is an appropriate level of accountability for a public resource, in my opinion.

Forums for improving trust and communication: A long history of conflict among fishermen, managers, and scientists in many regions of the U.S. complicates meaningful improvements to fisheries management, including the establishment of catch shares programs. Decision makers should ensure that a diversity of stakeholders are productively engaged in program design by providing neutral forums for discussing and learning about various design elements of catch shares.

Information to support decision making: Effective policies can feasibly be implemented even when the information on the fishery is not complete. Nevertheless, better analyses of baseline conditions, projections for impacts under proposed management systems, and tracking of progress toward biological and socioeconomic goals can improve any fisheries management program. Managers should identify early in the process any special studies that will be needed to support informed design and implementation of programs, as well as ways information can be shared with fishermen in forms useful to their business decision making and for their productive contribution to program design.

Quantity and quality of jobs: Social and economic characteristics that are important to fishermen and their communities, which ultimately depend on healthy fish stocks for long term success, are necessarily constrained by the limitations of the natural environment. However, within those limitations are abundant opportunities to define social and economic goals for fisheries and incorporate policies into catch shares programs that can help regions and communities achieve those goals. Unfortunately, fishermen often disagree among themselves about these details, putting managers in a difficult position of having to make decisions in the face of some guaranteed measure of opposition. Key factors that will require clarification for fisheries transitioning to catch shares include the appropriate mix of vessel and ownership types, definitions of excessive consolidation and what measures are appropriate to prevent it, how social and economic impacts will be measured through time in light of confidentiality restrictions on the collection of such data, and how to address the unintended transfer of effort from fisheries transitioning to catch shares to others.

Concluding remarks: Overall, catch share systems can be affective tools for allocating fishing privileges and engendering greater accountability and stewardship in a fishery, while increasing value and profitability. Because these benefits can be obtained, it doesn't mean they always will be if the system isn't designed well. Whether there is a catch share system or not, it is essential that fisheries are managed to stay within prudent catch limits that avoid overfishing and resource declines that have plagued fishery management for many years. Proponents of catch share systems need to accept that the design issues are important to the result for the resource, fishermen and fishing communities. Opponents of catch shares need to suggest alternatives that do not continue the overfishing and resource declines of the past while changing the dynamics of the fisheries debate.

Madame Chair, thank you for the opportunity to testify today and I look forward to your questions.

Ms. BORDALLO. Thank you, Dr. Rosenberg, for your statement, and for being here today.

Now I would like to recognize Mr. Backus. Please proceed.

STATEMENT OF EDWARD BACKUS, VICE PRESIDENT, COMMUNITY ECOSYSTEM SERVICES, ECOTRUST

Mr. BACKUS. Good morning, Chairman Bordallo and members of the Subcommittee. My name is Edward Backus, and I am the Vice President for Community Ecosystem Services at Ecotrust, a nonprofit organization based in Portland, Oregon.

I am also founder and Chair of the North Pacific Fisheries Trust, a $6 million community fishing quota revolving investment fund. I very much appreciate the opportunity to speak before you today.

Ecotrust's mission is to work toward creating economic opportunity, social equity, and environmental well-being. We work in a wide variety of economic development activities, including banking, ecological forest management, fisheries, finance, marine spatial planning, green building, and organic farm market development.

In fisheries, we regard catch share programs as having several valuable features, including increasing vessel safety, extending fresh market seasons, and, most important, accountability and incentives at the level of individual vessel.

But the dark side of fisheries quota programs is that they create an intangible asset, which can then migrate away from communities, displacing the economic benefits of fishing in a painful manner.

These are not trivial issues. Some of the most successful fishing communities in Alaska and the U.S. West Coast are struggling with the transition to the next generation of fishermen. How catch shares are treated can well determine whether such communities make it or not into the future.

Catch shares create markets and market value from this public trust asset. But they must remain a public trust asset, whether at the state, Federal, or local community level.

Quota programs empower the first generation of recipients, but hamper future generations. An examination of the patterns of quota transactions in Alaska and British Columbia shows an emerging pattern of market price, debt, leasing, and wage effects.

Some observers say that catch shares privatize fisheries. An example of this is when quota shares are leased. Ownership structures are key. Our national policy should not allow the creation of perpetual leasing operations by corporations or family trusts.

The current Pacific Trawl IQ program does just this, and will stifle innovation, reduce the benefits of liquid trade of quota shares, create barriers for new entrance, divert revenues from crew, communities, and economic multipliers.

So what do communities want? From our observations, Ecotrust recommends a required implementation of the community provisions as part of any catch share program, as provided for in the Magnuson-Stevens Act, Section 303 [a], the limited access privilege programs.

These provisions should become mandatory policy, not just a requirement for fishery management councils to consider the provisions. There should be some teeth in them so that fishery-dependent communities receive appropriate priority in the decision-making process as a matter of good public policy.

The policy should require that some proportion of fisheries quota shares be anchored in communities through entities like community trusts, such as the Community Quota Entity program in Alaska.

Why? As the 2004 Government Accountability Office report, GAO 04277, found, the easiest and most direct way to help protect communities under an IFQ program is to allow the communities themselves to hold quota. The unpredictable political process of the fishery management councils does not guarantee that community issues will be addressed, even using the current standards, presumed requirements, and options now in the MSA.

I would like to point out that the Pacific Fishery Management Council just last week again delayed the treatment of community fishing associations, effectively regarding it as not an integral part of the pending trawl individual quota program.

Recommendations. That NOAA strengthen the new policy on catch shares to set the following required standards of U.S. fishery management councils, if and when they undertake catch share programs.

Mandate the direct allocation to community ownership of at least 10 percent of all quota shares in each fishery management council region.

Require the development of community fishing associations, regional fishing associations, and other community structures now authorized in Magnuson.

Initiate a national quota-share trading registry to promote ownership transaction and pricing transparency, a feature which has been law since 1996.

Last, the National Marine Fishery Service has not yet issued the rule for limited access privilege program criteria or guidelines for the development of regional fishery associations and other community structures. The agency requested public input in 2007; here in 2010 we do not have any guidelines, criteria, or rules.

The Councils themselves are required to provide these criteria, and we are still waiting for them. NOAA and Congress need to provide mandatory oversight in any U.S. catch share program to address these community issues.

Thank you for the opportunity to make this statement this morning. I look forward to your questions.

[The prepared statement of Mr. Backus follows:]

Statement of Edward H. Backus, Vice President for Community Ecosystem Services, Ecotrust

Good morning, Madam Chairwoman, Honorable Members of Congress, fellow witnesses, and distinguished guests. My name is Edward Backus, and I am the Vice President for Community Ecosystem Services at Ecotrust a non-profit organization based in Portland, Oregon.

Ecotrust's mission is to inspire fresh thinking that creates economic opportunity, social equity and environmental well-being. Ecotrust works within a wider family of organizations which includes important partners such as Ecotrust Canada, ShoreBank Pacific—a for-profit commercial bank, ShoreBank Enterprise Cascadia—a non-profit rural community development financial institution, and Chicago's ShoreBank Corporation. We own and manage commercial timberlands through Ecotrust Forests LLC including carbon credit sales. Together, we have a collective staff of over 130 professionals and more than $300 million in assets.

Ecotrust believes we need fresh thinking—innovation—that creates market (economic), environmental, and social "value." We need an innovative systems approach to our challenges because social, economic and environmental conditions are all interconnected and interdependent parts of a larger system of life support. Only systemic solutions solve systemic problems. And we need resilience in order to survive and restore in times of stress. We need to innovate our way towards more resilient ecosystems, economies and social systems.

The deepest, most powerful "fresh" thinking is inspired by nature because we are a dependent part of natural systems. Over the evolutionary history of life on Earth, nature has solved all the fundamental design challenges of resilient, adaptive organisms, living communities, natural economies and robust "institutions." We can achieve "reliable prosperity" by practicing a natural model of development not because it is a better model, but because it is the only one (Jane Jacobs).

The Economist defined innovation is as "fresh thinking that creates market value." Fresh thinking inspired by nature is deep innovation. Crisis creates the opportunity to scale deep innovation for transformational change.

Market Design is Critical in Public Trust Assets

To the point of this hearing, I am the Founder/Chair of the North Pacific Fisheries Trust, a $6M community quota revolving investment fund.

We are working with longline fishermen in Southeast Alaska on the Alaska Sustainable Fisheries Trust, working with many communities in the Community Quota Entity program in Gulf of Alaska, and community fishing associations in Port Orford, Oregon, San Francisco and San Diego, California.

Our finance activities are but tailpipe solutions that struggle to work as a result of some weak policy choices that have been made in existing catch share programs. Choices that we are on the verge of repeating in the pending Pacific trawl IQ program on the U.S. west coast.

Catch shares (known as limited access privilege programs in the Magnuson-Stevens Fishery Conservation and Management Act) are a good tool for establishing individual vessel accountability in a fishery with a clear Annual Catch Limit, can stop the "race for fish" thereby increasing the safety of fishing and fishing fleets, and creating a more even flow of fresh, higher value seafood products to consumer markets.

But catch share programs also generate powerful financial incentives that can warp the long-term outcomes and success of such programs. These effects are growing stronger and in some cases just manifesting themselves.

Catch share programs need to be carefully designed need to address long term issues in community stability, economic viability, and intergenerational processes. We call this the 3E's: ecosystems, economics, and equity. Fisheries are a public trust and community economic development asset and should remain as such. In October 2007, Ecotrust developed a Market Design Workshop for Limited Access Privilege Programs in U.S. Fisheries at the Harvard Business School. Many new markets have been created from public trust assets. Catch share programs in fisheries should learn from these experiences.

Recommendations:

NOAA needs to strengthen the new policy on Catch Shares to set the following required standards of U.S. fishery management councils if and when they undertake catch share programs:

- Create catch share design pilot programs with fixed terms for quota ownership, periodic auctioning of all or part of the catch shares, triple bottom line (ecological, economic, social) performance based allocations, and other strategies to understand the effects of quota programs on long-term sustainability.
- Mandate direct allocation of quota shares to community entities.
- Mandate community ownership of at least 10-25% of all quota shares in each fishery management council region.
- Require the development of Community Fishing Associations, Regional Fishery Associations and other community structures now authorized in the Magnuson-Stevens Act as enacted.
- Initiate a national quota share trading registry to promote ownership, transaction and pricing transparency.

NOAA should also act to:

- Fund the National Fisheries Innovation Fund of the National Fish and Wildlife Foundation for the support of community entities interested in participating in catch share programs.
- Review existing catch share programs in terms of their performance to date, to determine what those experiences can offer for the design of new programs, rather than putting in motion a set of parallel efforts that are not informed by what has happened on the ground/dock/ocean already.

Why do I make these recommendations?

The recently issued NOAA Catch Shares Policy is a set of program goal statements but that the agency is challenged to actually implement the policy. Many of the desired policy elements that fishing communities would like to see as outcomes are there, but the reality is quite different.

For example, the policy states:

Fishing Community Sustainability: *NOAA encourages Councils to take advantage of the special community provisions in the MSA to help assure sustainable fishing communities, including the continuation of working fishery waterfronts, fishery infrastructure, diverse fishing fleets, and resource access... To this end, NOAA will help support community-based design and investment in innovative fishery management options. This partnership would include providing technical assistance in the development and submission of community sustainability plans under MSA Section 303A, and providing technical assistance in the creation of fishing community trusts*

or permit banks to help retain access to fisheries resources by fishermen in local communities.

The capricious political process of the fishery management councils does not guarantee that community issues will be addressed even using the current standards, presumed requirements, and options now in the Magnuson-Stevens Fishery Conservation and Management Act (MSA). NOAA needs to provide mandatory oversight measures in any U.S. catch share program to address these community issues.

Key Issues

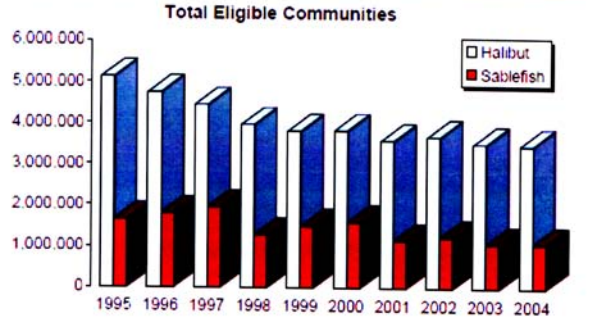
Ecotrust, and its finance subsidiary the North Pacific Fisheries Trust, have been monitoring and evaluating several issues related to the patterns emerging from the quota fisheries that are in place in Alaska and British Columbia.

History in these fisheries shows that groundfish are an important economic development asset that provides the broadest set of benefits when access is tied to the traditional pattern of fishing communities on our coast. The IQ program needs the flexibility to meet the multiple goals it has defined either explicitly or implicitly such as bycatch avoidance, rebuilding of stocks, community stability, and economic "effectiveness" (not necessarily always efficiency) via different incentives. In changing resource, policy, and business environments, stability and flexibility can foster innovation and adaptation in new markets, fishery methods, and adaptive organizations such as Community Fisheries Associations.

Community stability: quota can migrate away

Fishery quota shares are intangible assets that can migrate away from communities. A NMFS study found that in the small communities of the Gulf of Alaska, the number of persons holding halibut quota shares dropped by 46% from 1995-2004.

	Total IFQ Holding by Year		
Comparison	1995	2004	% change
Halibut lbs.	5,123,263	3,478,763	-32%
No. Persons	739	402	-46%
Sablefish lbs.	1,650,761	1,085,911	-34%
No. Persons	127	61	-52%



Report on Holdings of Individual Fishing Quota (IFQ) by Residents of Selected Gulf of Alaska Fishing Communities 1995 – 2004, March 2005. Alaska Region, NOAA Fisheries Service (NMFS) Restricted Access Management Program , Juneau, AK 99802 www.fakr.noaa.gov

Quota programs empower the first generation of recipients and hamper the future.

Testimony from the recent North Pacific Fisheries Management Council February 2010 meeting from the Alaska halibut fishery shows that second generation (even with gifting of quota—which generates capital gains tax stress) does not earn the same revenues as those who were initially issued quota. An examination of fifteen years of data on quota transactions also shows an emerging pattern of market price, debt, and social effects.

Leasing and debt kills the culture of fishing and fishing communities

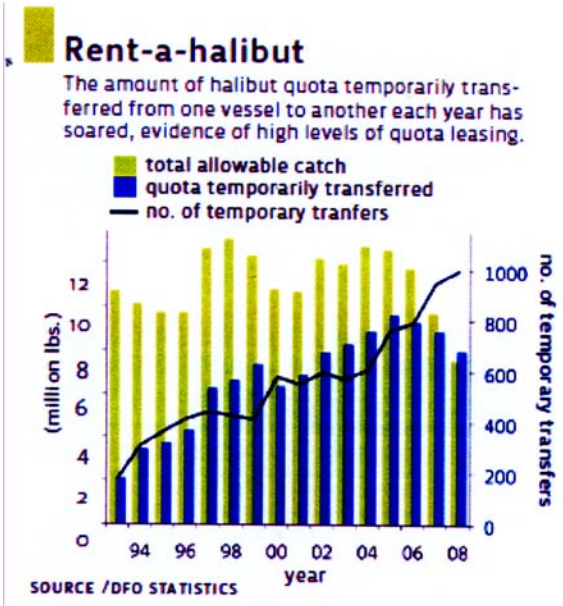
Ownership structures are key; our national policy should not allow the creation of perpetual leasing operations (family corporations or otherwise). The current Pa-

cific Trawl IQ program does just this, and will stifle innovation, reduce the benefits of liquid trade of quota shares (one of the presumed benefits of catch share programs), individual ownership, incentives for new entrants, divert revenues from crew, communities, and economic multipliers. The Pacific Trawl IQ was set up for economic efficiency, not as a strategy for conservation or community viability.

In the pending Pacific trawl TIQ program, the current definition of "eligible to own" quota shares does not limit the ability of prospective owners of quota shares to lease those shares into the future. The biggest risk associated with leasing is the dissipation of fishing revenues away from active vessel owner/operators, new entrants, crewmembers and communities as leasing fees come "off the top" before regular expenses and wages are paid. In some cases lease fees are 70% of gross landing receipts (Alaska crab fisheries). Whenever and wherever lease rates reach these levels, it is very difficult for non-owners to earn a fair return on their fishing assets and time.

"Desperation"

Two recent publications [1] (see endnote) from the British Columbia quota fisheries experience have demonstrated that leasing of quota undermines the financial stability of remaining fleets after the implementation of an IQ program, particularly in situations where non-fishing owners and processors control quota share.

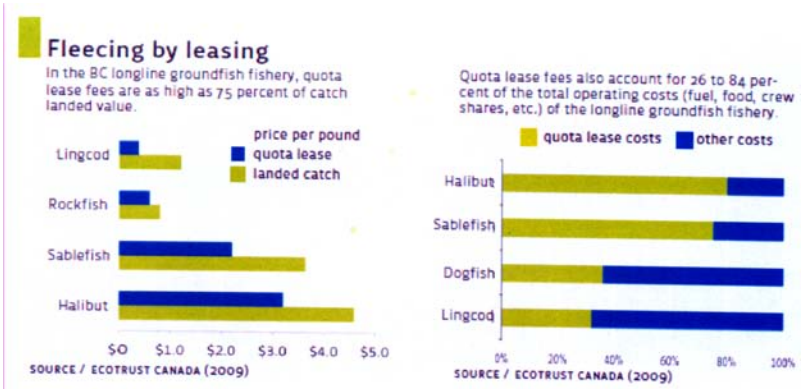


"A Cautionary Tale About ITQs in BC Fisheries", Briefing, Issue 8, 2009, May 2009, Vancouver, BC: Ecotrust Canada.

- 75% of the landed value in BC halibut fishery goes to pay lease fees to the non-fishing owners of quota.
- 84% of the total costs in the BC halibut fishery is lease fees.

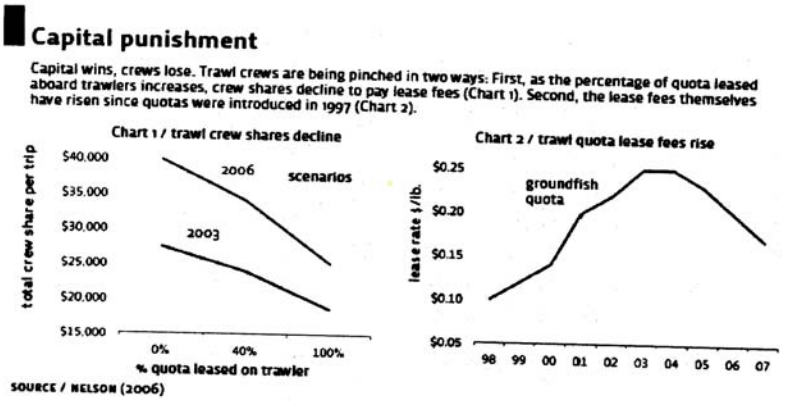
Evelyn Pinkerton of Simon Fraser University, in a long term study of the effects of leasing in British Columbia quota fisheries, heard characterizations of small boat fishermen as "desperate" in the control of processors who dominate the holdings of quota shares. Vito Giacalone of Gloucester, Massachusetts, who operates a permit bank for trawlers, says leasing will lead to fishermen being sharecroppers.

[1] "A Cautionary Tale About ITQs in BC Fisheries", Briefing, Issue 8, 2009, Draft 13 May 2009, Vancouver, BC: Ecotrust Canada. Pinkerton, E. and D. Edwards, 2009, "The elephant in the room: The hidden costs of leasing individual transferable fishing quotas", Marine Policy 33:707-713.



"A Cautionary Tale About ITQs in BC Fisheries", Briefing, Issue 8, 2009, May 2009, Vancouver, BC: Ecotrust Canada.

- 30-50% decline in crew shares occur when all quota on BC groundfish trawler is leased.



"A Cautionary Tale About ITQs in BC Fisheries", Briefing, Issue 8, 2009, May 2009, Vancouver, BC: Ecotrust Canada.

Debt:

A serious issue that will face the next generation of fleet members is debt associated with Quota Share purchases. In order to enter the fishery, new entrants will buy quota shares, be gifted Quota Share, or lease them from initial recipients.

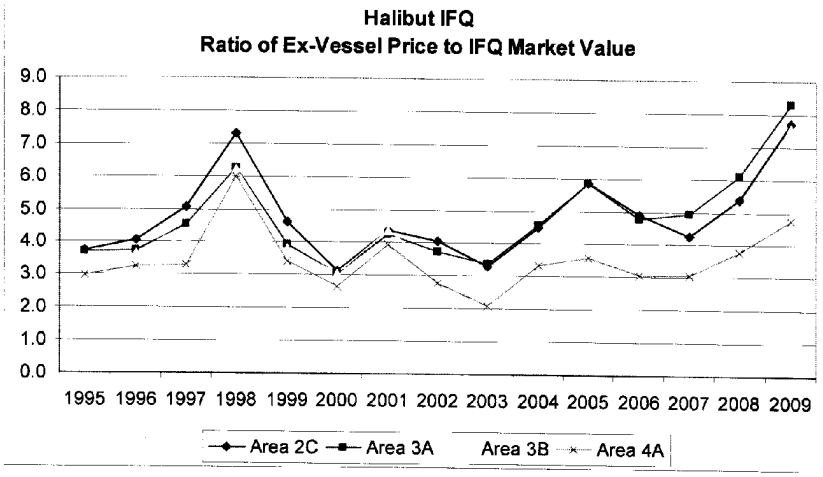
We are empowering the current generation of quota recipients, who have certainly earned their way by building businesses, but we are saddling all future generations of fishermen with debt (unless you have quota issued already in the family—but even that generates capital gains pain...gifting quota from one family member to another is a taxable event.)

As a specific example, 25,000 lbs. of halibut QS at $24/lb. = $600,000. If a new entrant could acquire a NMFS loan at 30% down, the cash upfront required would be $180,000. The remaining debt would be $420,000. At 8% interest for 30 years, payments would total $1.12M including principal and interest (interest of $700k, which is 166% of the principal.)

Prices Escalate: Price/Earnings Ratios of Fisheries Quota

We can use the data from the Alaska halibut IQ fishery from the period 2000-2007 as a benchmark example. Every year, between 38 and 52% of transfers in that period were financed. The Alaska halibut QS price has been tracking with dock

prices but has inflated on a relative basis from 1995 to 2009[2] (see endnote). The historical ratio of QS/ex-vessel prices has been generally in the range of 3-5:1, but has been substantially above that range for the past several years. Recently, both QS and ex-vessel (dock) prices have been coming down, but dock price has fallen much faster (back to historic long term levels near $2.50 - $3.00/lb.), with the result being that the QS price/dock earnings index is now double historical norms at approximately 8:1, worse by 100%. New entrants that need to finance QS in order to enter the fishery have been and are continuing to face a strong headwind in this environment.



One issue driving the run-up in this ratio appears to be Gifting of QS to new entrants. Gifting of AK QS halibut shares was 18-28% from 2000-2007[3]. Gifting cuts the cost basis of acquiring new QS substantially, creating a major competitive advantage for further accumulation of QS by the Giftee. On the other hand, Gifting usually comes with an implied revenue commitment of at least 50-70% to the Giftor. Thus the Price/Earnings ratio is at least 25% better for the Giftee compared to a new entrant.

What do we need to do?

We need firm program requirements as national standards that must be implemented in all catch share programs.

Community Fisheries Trusts: creating different incentives

Require Councils to make at least a 10% (or more) allocation to Community Trusts:

Why?

- Having an allotment of quota that is permanently anchored in communities can help community and geographic stability.
- Trusts with no debt can lease for 8-12% overhead rates.
- New entrants to the fishery have an incentive to stay and fish in that community if they can get a start with low rate leases of quota.
- New entrants can then bootstrap themselves into gradual individual ownership of quota as they earn greater revenues with less overall debt.
- Trusts can offer capital gains tax solutions to retiring fishermen, thus investing additional amounts of quota into the community.

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[2] Ex-vessel prices based on data from Alaska Commercial Fisheries Entry Commission for 1995 thru 2007. Estimated prices reflect weighted average ex-vessel prices reported for all fixed gear types (longline, troll, jig, and handline) and all delivery/condition types. Estimates reflect deliveries by catcher vessels to shoreside processors. 2008 and 2009 values based on anecdotal evidence.

2) IFQ market value based on NMFS/RAM data for1995 thru 2005, PermitMaster for 2006 thru 2009.

[3] Table of Alaska Halibut Transfer data summary (2000-2007), courtesy of the Restricted Access Management Program, NOAA Fisheries, Juneau, AK, prepared March 2009.

- Community or Regional Fishery Associations as written the Magnuson Act can function as Trusts.

Community Fisheries Trusts (including Regional and Community Fishing Associations) can contribute to environmental, economic, and community needs, including:

- **Protecting smaller ports and smaller-scale fishermen.** Community Trusts can help protect smaller ports and smaller-scale fishermen by initiating strategies to (a) anchor fishing quota in the community; (b) facilitate intergenerational transfer of fishery access; (c) incentivize and leverage affordable catch share financing; (d) help fishermen diversify their fishing "portfolios"; and (e) deliver health care to fishermen and their families. In turn, these activities will support the maintenance of fisheries related infrastructure in communities and attract new entrants to the fishing community.
- **Participating in the development and design of effective fisheries management.** Trusts can provide a key role in emerging catch share systems (e.g. program design, planning, permit auctions, finance, marketing) by bringing fishermen's voices to FMC meetings or by retaining specialized expertise. In addition, they can participate in bycatch reduction initiatives such as gear modification, mapping bycatch hotspots, improved fishing practices, etc.
- **Creating fishery conservation networks.** Community Trusts can serve as vehicles for information sharing, contribute to scientific research, reduce carbon footprints, and mentor young fishermen.
- **Building and participating in new emerging markets for sustainable community-based seafood products.** In recent years, increases in aquaculture production and seafood imports have had a profound effect on the domestic ocean fishing industry. While aquaculture and foreign seafood may have a competitive advantage in price, U.S. fishermen still have several advantages over producers of these product types. First, many domestic wild fisheries have the advantage of being closer to markets and therefore a shorter supply chain to the consumer. At the same time, the demand for both fresh and locally caught seafood is growing rapidly. A CFA could capitalize on these advantages by (a) supporting development of regional brand; (b) initiating marketing to reach key consumers and providing increased coordination for existing marketing efforts; and (c) promoting awareness among consumers about local and seasonal seafood options.

The Magnuson-Stevens Act now allows for the creation of these kinds of community-based fishing support organizations and innovative fishing communities around the country have already been finding ways to meet the major challenges they face. We need to support the development process of Community and Regional Fishery Associations early and widely, however, so that communities may engage in the creation of the standards or guidelines to be developed to encourage these alternatives to mature.

Experiences from Alaska fisheries: one that works, one that does not.

Let us look at the Community Development Quota corporations in Alaska—successful due to allocation (vs. Community Quota Entities—which have to purchase on open market, not competitive).

Two experiences in Alaska with Community Fisheries Trust-like entities are instructive for developing the Community FA framework: Community Quota Entities (CQEs) and Community Development Corporations (CDQ).

CDQs were established 15 years ago by an act of Congress and were allocated 10% of overall quota in many species. Today they are vibrant multi-million dollar revenue community based economic development engines.

Community Quota Entities (CQEs) were formed 10 years into the Alaska IFQ program by the North Pacific Fishery Management Council and were not allocated any Quota Shares and must buy them on the open market. They do this with great difficulty, given the price for quota and the capital barriers to entering into the market.

Both CDQs and CQEs are examples of Community Fisheries Trusts. The management processes of both organizations create a sense of cohesion and cooperation at the scale of communities. Both forms have evolved considerable managerial skill and capacity. In terms of viability, however, one system is healthy, one is not.

The major lesson here is that it is beneficial to establish Trust type institutions immediately when starting an IFQ program.

As a 2004 Government Accounting Office report found (GAO-04-277), "the easiest and most direct way too help protect communities under an IFQ program is to allow the communities themselves to hold quota".

Recommendations:

NOAA needs to strengthen the new policy on Catch Shares to set the following required standards of U.S. fishery management councils if and when they undertake catch share programs:

- Create catch share design pilot programs with fixed terms for quota ownership, periodic auctioning of all or part of the catch shares, triple bottom line (ecological, economic, social) performance based allocations, and other strategies to understand the effects of quota programs on long-term sustainability.
- Authorize direct allocation of quota shares to community entities.
- Mandate community ownership of at least 10-25% of all quota shares in each fishery management council region.
- Require the development of Community Fishing Associations, Regional Fishery Associations and other community structures now authorized in the MSA as enacted
- Initiate a national quota share trading registry to promote ownership, transaction and pricing transparency.

NOAA should also act to:

- Fund the National Fisheries Innovation Fund of the National Fish and Wildlife Foundation for the support of community entities interested in participating in catch share programs.
- Review existing catch share programs in terms of their performance to date, to determine what those experiences can offer for the design of new programs, rather than putting in motion a set of parallel efforts that are not informed by what has happened on the ground/dock/ocean already.

Thank you for your time and I look forward to your questions.

Response to questions submitted for the record by Edward Backus, Vice President, Community Ecosystems Services, Ecotrust

Questions from Chairwoman Madeleine Z. Bordallo (D-GU)

1. If properly designed, catch share programs can play an effective role in a multi-faceted approach to responsibly managing fisheries. However, poorly designed catch shares can create as many problems as they solve. Would you agree with this statement?

Yes I would. Poor design can generate a variety of negative social and economic effects including; impacts to the culture and structure of fishing communities, increasing debt loads among existing and second generation fishing participants, reduced revenues and access from the practice of leasing, disenfranchisement of crew and their role in successful fishing businesses, disruption of the geographically proximate relationships between communities and natural resources via the migration of the intangible asset of quota shares away from communities through market trading, among other effects.

Well designed catch share programs will draw on the market design principles from other industries where new markets have been created using public trust assets (e.g. the wireless spectrum). In fisheries, good design should address economic, ecological, and social issues. Market design experts suggest that all of these issues can addressed by market approaches. Some of these approaches were explored by Ecotrust during a market design workshop for catch shares programs in U.S. fisheries at the Harvard Business School in October 2007 (proceedings at: http://www.ecotrust.org/cbfm/WPS4—Fisheries—Mrkt—Design.pdf)

Julia Olson, social scientist with NOAA Fisheries, NE Fisheries Science Center in Woods Hole Massachusetts has conducted a social impact assessment of catch shares in fisheries in detail in the context of the New England scallop fishery. Her report is available here; the New England Fishery Management Council's ***September 22-24, 2009 Council Discussion Documents.*** #9a ***Environmental Impacts*** Section 1.5.2 - Pages 93-103.

2. How can catch shares give fishers a "false sense of security?"

The emergence of catch shares as a defacto "property right" has supported the creation of much wealth in the U.S. fisheries sector. But it is hard for fishermen to remember that quota is a privilege that can be revoked, especially after many participants have engaged in successful market transactions to buy or sell quota shares.

First, in terms of allocations, quotas provide no more legal protection to fishermen than regular fishing permits or licenses. Whether a fisherman owns a permit or quota, the government can reallocate commercial catches to settle international or

other treaties, or to meet demands of the sports-fishing sector. By way of example, in British Columbia, 12 percent of the commercial halibut catch was reallocated to the sports-fishing sector in 2003. There is a similar ongoing process in Southeast Alaska in the halibut sector, this time with litigation. This was done without compensation to halibut quota holders. Catch share quotas don't strengthen the property rights of fishermen to prevent reallocations or in seeking compensation.

Second, catch share quotas do nothing to mitigate ecological uncertainty. Climate change, marine survival rates, habitat damage, predation and other factors cause fish stock levels to fluctuate and thereby create the greatest uncertainty for fishermen. It must be remembered that quotas are generally a defined percentage of the total allowable catch (TAC) and don't represent a specific poundage of fish (even though quota shares are often sold in units of pounds). As a result, when fish stock levels rise and fall from year to year because of environmental conditions so do fishermen's quotas. Quotas will do nothing to mitigate this kind of ecological uncertainty. In fact when TACs decline, fishermen have a tendency to lobby Councils and other management entities (International Pacific Halibut Commission) to set the TAC higher than biological recommendations would suggest. This happened at the IPHC in 2010. In this sense, catch shares tend to develop a sense of entitlement and a resulting sense of betrayal when things must change due to ecological or biological limits.

Third, in terms of market forces, quotas can help fishermen respond better to the market by giving them flexibility to deliver catches when demand and prices are high. However, many fishermen lease quota in pre-season agreements, locking themselves into lease rates per pound. In some fisheries, 60 to 75 percent of the landed value goes to paying quota lease fees. If fish prices drop or fuel costs rise, their profits could disappear. As a result, quota leasing can actually increase fishermen's risk and exposure to changing market forces.

One certain aspect of catch share programs is that some fishermen will opt to lease their quotas if allowed, thus guaranteeing themselves revenue without any risk of having to actually go fishing.

3. In your testimony, you reference the research of Evelyn Pinkerton of Simon Frasier University, who found British Columbia small boat fishermen as "desperate" in the control of processors who dominate the holding of quota shares. Can you expand upon this point?

The term "desperation" demonstrates how extreme the results, feelings, and impacts of allowing leasing in catch share programs can be. The context of the fisheries examined by Pinkerton also demonstrates that the effects are not just about economic efficiency, but have everything to do with fishing culture, community structure and well-being, inter-generational hope, and maintaining a sense that fisheries are a viable business to enter. It is critical to learn from the experience in British Columbia to prevent catch share programs from undermining small boat fishing as a viable small business. Fishing is not viable if it becomes just the labor component in a larger equation of control by non-fishing entities.

Quoting from the Pinkerton and Edwards paper in Marine Policy...

> *"Of the 182 active halibut fishing vessels in 2006, 37 vessels leased 90% or more of the halibut quota they fished, 67 vessels leased 70% or more of the halibut quota they fished, and 91 vessels (half the active fleet) leased 50% or more of the halibut quota they fished.... It is impossible to know exactly what percent of leasing creates a marginal operation, because individual situations are varied and complex. But it is clear—that leasing is by far the largest fishing cost and that operations become increasingly less profitable, the more of their quota they must lease. It is also clear—that a significant number of operations...more than a third of the fleet...currently fall in the less viable or marginally viable category (those leasing 70% or more of the quota they fish)."*
>
> *"Why do lessee skippers continue to fish if their operations are marginal? Why do not they correctly receive the market signals that they are financially non-viable? Economic theory predicts that such marginal operations will simply cease to lease quota and find more profitable employment. But there are many reasons why marginal operations continue. Sometimes a vessel owner leases quota to pay for the maintenance of the vessel. A vessel may serve multiple subsistence, transportation, identity, or prestige functions, or maintaining it may simply represent the hope that the price will go up. Operating a vessel may be the best or only way to offer a job to a son to help pay for his education, and to have a working experience with him. In some cases, fishermen know no other life, have no other skills, subsidize their fishing with another job or another fishery, or are unwilling to relocate to places*

with more economic opportunity because they have extended family and community and low cost housing where they live."

Pinkerton and Edwards conclude;

"Increasingly, those who have advocated ITQs as economically efficient are making broader claims about the general health of the industry and broader public benefits. So in the question of "efficient for whom?", the answer is assumed to be "efficient not just for holders of ITQs but also for all actors in the fishery and the owners of the resource, the Canadian public". This discussion has shown that this assumption, as well other assumptions underpinning the indiscriminate promotion of ITQs, do not apply in the British Columbia halibut fishery."...

"The quota leasing market in the BC halibut fishery is limiting efficiency, stifling innovation, and causing financial hardship. It is clear that a well functioning ITQ fishery requires greater forethought, oversight, and regulation in the design and implementation of transferability rules."

Reference: Pinkerton E, Edwards DN. The elephant in the room: The hidden costs of leasing individual transferable fishing. Marine Policy 33 (2009) 707-713.

4. Could you describe the advantages that community entities could provide in addressing the issues of leasing, debt, new entrants, taxes, and other issues?

Fisheries are an important economic development asset that provides the broadest set of benefits when access is tied to the traditional pattern of fishing communities on our coasts. A catch share program needs the flexibility to meet the multiple goals it has defined either explicitly or implicitly such as bycatch avoidance, rebuilding of stocks, community stability, and economic "effectiveness" (not necessarily always efficiency) via different incentives. In changing resource, policy, and business environments, stability and flexibility can foster innovation and adaptation in new markets, fishery methods, and adaptive organizations such as Community Fisheries Associations.

If, under the community provisions of the MSA, community entities are set up such as Fishing Communities (yet needing definition by Councils) or Regional Fishery Associations as non-profit 501c3 tax exempt organizations under the IRS code, then these organizations can provide economic incentives to address leasing, debt, taxes and other issues.

Using the example of the pending Pacific trawl individual quota program, a fisherman receives an allotment of quota. Let's say he wishes to retire and sell his quota (not leasing it.) His cost basis for receiving the quota is zero and so he will have to pay **capital gains taxes.** Selling his quota at a discount to a non-profit community entity creates a multi-year capital gains tax abatement strategy. The discount is a charitable donation, an "investment" in that fisherman's own community that has supported him during his fishing career.

To continue this same example, now a new generation fisherman wishes to get into the business, and he has just enough capital to buy the active vessel from the retiring fisherman, but he cannot afford a loan to buy quota shares which are required to go fishing. Now he can lease that quota from the Community Entity at **rates well below sub-market** (assuming the Community Entity has no debt—which it might") 8-12% rates which help pay the low overhead for the Community Entity.

The issue of whether the Community Entity has any debt is germane to the initial allocation issue. Again, in the case of the Pacific trawl individual quota program, there is a 10% set aside known as the Adaptive Management Program, the specific use or allocation of which is yet undefined by the Pacific Council. This 10% might be allocated to processors in fact as one of the options. But, it could be (should be) allocated to community entities thus combining the program ideas for Adaptive Management and Community Fishing Associations that the Pacific Council is considering in trailing actions after it submits this new catch share program as an amendment to its groundfish management plan.

One potential use of the 10% Adaptive Management allocation could be to reduce capital requirements for in-season needs to cover overages incurred by vessels (disaster tows). The Groundfish Management Team report on this matter indicates that this allocation should be **"used for reasons beyond generating profit, for a broad sector benefit."** For example, the Adaptive Management 10% could also be used to buffer the "margin" needed to address Over Fished Species (OFS) allocations. Allocating this 10% set-aside to Community Fishing Associations for these purposes could also reduce in-season transaction costs by making it easier for vessels to find and lease the needed marginal Quota Share to address these bycatch or overage issues.

Community Entities as described in the MSA are conceived of exactly to provide "broad sector benefits" as described by Pacific Council process.

5. In the Magnuson-Stevens Fishery Conservation and Management Act, the language of part of the Limited Access Privileges Program section describes Regional Fishery Associations. Can you explain the term Community Fishing Associations and describe how either of those entities can function to help communities?

As described in the previous question the MSA contains two specific community provisions in relation to catch share (limited access privileges) programs; Fishing Communities and Regional Fishery Associations. One can be allocated catch share quota—Fishing Communities, and one cannot—Regional Fishery Associations.

In the case of the pending Pacific trawl individual quota program, the Pacific Fishery Management Council began to explore using the concept of the Regional Fishery Associations (RFA) in March of 2009, well into to the design process of the program. The Council decided to name them Community Fishing Associations (CFA), which we interpret as the same as the RFA structures defined the Magnuson-Stevens Fishery Conservation and Management Act.

In any case, RFA or CFA entities can function as community entities (trusts) as described in the previous question. The overall functions of a CFA/RFA are to provide fishing communities a way to hold quota share assets within catch share programs, either through purchase or donation thus providing tax advantages. Having a CFA entity in a community also can provide incentives to keep fishermen, landings, and infrastructure in place, and therefore tax revenues, and economic multipliers from other businesses.

CFAs will require community boards to run them, and this will enhance the transparency of the quota process, leasing, market prices of quota sales and other functions. Markets work best when there are multiple sources of information about prices and community entities can be a source.

To reiterate the functions and benefits of CFA/RFA structures, I quote from my prior written testimony;

- Having an allotment of quota that is permanently anchored in communities can help community and geographic stability.
- Trusts with no debt can lease for 8-12% overhead rates.
- New entrants to the fishery have an incentive to stay and fish in that community if they can get a start with low rate leases of quota.
- New entrants can then bootstrap themselves into gradual individual ownership of quota as they earn greater revenues with less overall debt.
- Trusts can offer capital gains tax solutions to retiring fishermen, thus investing additional amounts of quota into the community.
- Community or Regional Fishery Associations as written the Magnuson Act can function as Trusts.

In addition, Regional and Community Fishing Associations can contribute to environmental, economic, and community needs, including:

- **Protecting smaller ports and smaller-scale fishermen.** Community Trusts can help protect smaller ports and smaller-scale fishermen by initiating strategies to (a) anchor fishing quota in the community; (b) facilitate intergenerational transfer of fishery access; (c) incentivize and leverage affordable catch share financing; (d) help fishermen diversify their fishing "portfolios"; and (e) deliver health care to fishermen and their families. In turn, these activities will support the maintenance of fisheries related infrastructure in communities and attract new entrants to the fishing community.
- **Participating in the development and design of effective fisheries management.** Trusts can provide a key role in emerging catch share systems (e.g. program design, planning, permit auctions, finance, marketing) by bringing fishermen's voices to FMC meetings or by retaining specialized expertise. In addition, they can participate in bycatch reduction initiatives such as gear modification, mapping bycatch hotspots, improved fishing practices, etc.
- **Creating fishery conservation networks.** Community Trusts can serve as vehicles for information sharing, contribute to scientific research, reduce carbon footprints, and mentor young fishermen.
- **Building and participating in new emerging markets for sustainable community-based seafood products.** In recent years, increases in aquaculture production and seafood imports have had a profound effect on the domestic ocean fishing industry. While aquaculture and foreign seafood may have a competitive advantage in price, U.S. fishermen still have several advantages over producers of these product types. First, many domestic wild fisheries have the advantage of being closer to markets and therefore a shorter supply chain

to the consumer. At the same time, the demand for both fresh and locally caught seafood is growing rapidly. A CFA could capitalize on these advantages by (a) supporting development of regional brand; (b) initiating marketing to reach key consumers and providing increased coordination for existing marketing efforts; and (c) promoting awareness among consumers about local and seasonal seafood options.

6. There are two community entity structures in Alaska, the Community Quota Entities and the Community Development Corporations. Could you explain their functions and similarities or differences?

Let us look at the Community Development Quota corporations in Alaska—successful due to allocation vs. Community Quota Entities—which have to purchase on open market, and therefore not competitive nor successful.

Two experiences in Alaska with Community Fisheries Trust-like entities are instructive for developing a Community Entity framework: Community Quota Entities (CQEs) and Community Development Corporations (CDQ).

CDQs were established 15 years ago by an act of Congress and were allocated 10% of overall quota in many species. Today they are vibrant multi-million dollar revenue community based economic development engines.

Community Quota Entities (CQEs) were formed 10 years into the Alaska IFQ program by the North Pacific Fishery Management Council and were not allocated any Quota Shares and must buy them on the open market. They do this with great difficulty, given the price for quota and the capital barriers to entering into the market.

Both CDQs and CQEs are examples of Community Entities. The management processes of both organizations create a sense of cohesion and cooperation at the scale of communities. Both forms have evolved considerable managerial skill and capacity. In terms of viability, however, one system is healthy, one is not.

The major lesson here is that it is beneficial to establish community entity organizations immediately when starting any catch share program.

7. If access to the federal fisheries finance program were expanded, would that help the situation in communities?

Representatives for the Community Quota Entity Program in Alaska and the North Pacific Fisheries Trust have had discussions with the headquarters (Silver Spring/NOAA) and regional offices of the federal fisheries finance program. The headquarters office was not aware of the CQE program.

The current federal program which finances the purchase of quota shares is only accessible by individuals. This is a very successful program in financial terms and has the enviable record of no defaults on loans the program has made for quota purchases.

It would be of great benefit to communities if the access to this federal finance program was provided for community entities, such as the Community Quota Entity Program in Alaska, as well as Community Fishing Associations and Regional Fishery Associations.

Our understanding is that this would require legislative action by the Congress, and we endorse such a potential action.

Questions from Republican Members

1. Are you familiar with the North Pacific halibut plan? How would that fishery have changed if your idea of requiring up to 25 percent of the fishery be giving to communities?

I am familiar with the halibut quota program as implemented by the North Pacific Fishery Management Council. The North Pacific Fisheries Trust is active in many Alaska communities that fish halibut, own quota, or seek to acquire quota.

The halibut fishery experienced a 25% consolidation in the early years (1-4) of the program. Based on studies by Alaska-based university social scientists and economists and NOAA program administrators, one would project that community allocations would have dampened the negative effects of the program (see references at end of section). In fact the subsequent allocations to the Community Development Quota Corporations managed to allow many communities to recover from those effects.

In general with community allocations, one would expect to see far less quota migrate away from communities, more stable communities from a social and economic structural perspective, far more viable small fishing communities, less human migration away from communities, a greater sense of hope in communities which became marginalized through the process, more time for people to understand the creation of a new "asset"—quota shares and how the value of that asset would change

over time and more incentives for fishing businesses to stay in particular communities in order to access the community-based quota.

Fishing businesses are not independent in their relationship to communities, although many of them migrate around with the seasonal fisheries, even as they may be based in another state or larger community somewhere else in the same state. Crews, gear shops, fuel docks, processors, secondary businesses in supplies and other services must be part of the equation when considering the design of catch share programs with public trust fisheries. Owners should not be the sole beneficiaries of the "conversion" catch shares. One way to recognize the role and relationship of communities in this process is to allocate a modest amount (10%) to community entities (either Fishing Communities or Regional Fishery Associations) as provided for in the Magnuson-Stevens Fishery Conservation and Management Act (as revised 2006).

References:

Enclosing the Fisheries: people, places, and power. Marie E. Lowe and Courtney Carothers, editors. 223 pages. Published by the American Fisheries Society, December 2008. Bethesda, MD. ISBN: 978-1-934874-05-9

Report on Holdings of Individual Fishing Quota (IFQ) by Residents of Selected Gulf of Alaska Fishing Communities 1995—2004, March 2005. Alaska Region, NOAA Fisheries Service (NMFS) Restricted Access Management Program , Juneau, AK 99802 www.fakr.noaa.gov

2. Do you think that taking a percentage of the quota off the top for communities would work in New England fisheries?

Yes I do. But in fact the sector allocations could effectively generate the same result. However they are not designed consistently for geographic coherence. In other words some sectors have boats from Maine and Martha's Vineyard in the same sector, boats that do not share/fish the same waters and stocks, or use/participate in the same ports. This is not an approach that supports the connections between "people and place"—the natural affinities and knowledge that fishermen have for fisheries resources—the patterns of seasons, stocks, and their inherent variability.

If sectors, which are effectively co-operatives, were delimited geographically, such as the Cape Cod hook sector, then you would have a set of community supporting structures, assuming you require all fishery participants in that cluster of related communities to participate in the sector in order to fish. That way all of the issues subordinate to the initial allocation of potential harvests to that sector can be managed by the co-op approach to the sector; when and where to fish, catch and bycatch sub-allocations, intra-sector in-season exchange of sub-allocations to allow fishing to continue as long as possible etc.

The goal of community allocations, either via community entities, or community-based sectors is to provide an "anchor" for the quota or allocations in communities to dampen the potential effects of quota markets, escalating prices, quota and human migration, barriers to new entrants, and so on. Some observers suggest that bycatch species or stocks still under rebuilding plans overly limit the sector approach and thus it will not work. Within an ecosystem-based approach to a multi-species fishery (such as New England groundfish) I do not see any other approach which could provide more flexibility in dealing with a broad spectrum of issues while operating within the biological limits of the marine ecosystem.

3. How would a community set-aside work in an area where there are many small communities? Would there be enough quota in any one community to support a fleet? If not, how would a community set-aside work?

In general, any community set-aside will not be enough to support an entire fleet regardless of how many or few communities are involved. However, the central concept is that a community allocation creates as incentive for individual fishermen to stay fishing in that community as there is an "anchor" of quota that will never leave that community. The assumption is made in the community set-aside process that individuals will have quota holdings that can be matched up with community holdings to create larger pools in income. Thus there is an incentive to stay and fish in that community.

In addition, the potential uses of that quota (based on experiences in Alaska) could be to promote new entrants into a fishery—such as the skiff class in the halibut fishery. The overall goal being to create interactions between individual and community incentives, specifically by helping new fishermen have access to low cost leases for quota, then earning enough income to be able to save for their own quota purchases in the same vessel class (again using the Alaska halibut example). Thus

you are using the community process to "bootstrap" individual ownership of catch share quota, building community stability in the process.

In Alaska, the Community Quota Entity program allows for multiple communities to operate under one single Entity (organization) thus pooling quota and representing a greater synergy of interests. This option has yet to be used.

4. Most people believe that Councils should have flexibility in developing fishery management plans. Why do you believe it is okay to mandate community set-asides?

Flexibility has its place, but we need some boundaries on flexibility. We need some mandates and as well limits on those mandates, balance in other words. Sideboards or basic requirements are needed, based on the lessons one can learn from the experience to date from around the world with catch shares in fisheries. 10% set asides have been established in Alaska in many quota fisheries, 10% has been allocated—though not defined in its ultimate purpose—for adaptive management in the Pacific trawl individual quota program being proposed. We have enough experience with the negative effects of catch share programs, and enough experience with community set-asides to show that, done correctly, their economic and social effects are positive. 10% hardly impacts any flexibility the Councils have in designing catch share programs.

5. You have harsh things to say about the fishery management councils. Do you think we would have better fishery management plans if NOAA wrote them? If you are concerned about NOAA's push toward catch shares and you are concerned with the council, who do you think should develop fishery management plans?

This question tries to frame the issue as "one or the other" e.g. the Councils vs. NOAA as the decision maker or arbiter in fisheries management. This is a false dichotomy. My point is that within the democratic process of the fishery management councils, we commonly observe that economic politics tends to highly influence the outcomes of the voting process in the creation or amendment of fishery management plans. If I appear critical of that process, I am only making a realistic statement that describes the process.

The reason we have national standards (which do not carry the force of law as does the rest of the Magnuson-Stevens Act) is to try and provide some consistency in the outcomes of fishery management plans in the U.S. But since these standards are open to wide interpretation by Councils depending on the political pressures they are subject to, the outcomes are inconsistent - for example National Standard 8 (the social and economic effects on communities) requiring only the consideration of these effects.

The Council process is a genuinely democratic process but it needs to some minimum requirements. NOAA is pushing catch shares as a policy but it cannot implement that policy except through the Councils (aside from technical or financial assistance NOAA may provide). Catch shares are complex market instruments. Few if any Council members, staffs or committee members have expertise in market design.

Therefore, based on what is widely known on the social and economic effects of catch shares on communities, in the process of creating catch share programs it is time we established some mandates for minimum requirements for Councils to implement the community provisions that are already written in the Magnuson-Stevens Fishery Conservation and Management Act (as revised 2006).

Ms. BORDALLO. Thank you, Mr. Backus, for your remarks on how catch shares can be improved.

Now I would like to recognize Ms. Cobb. Please proceed.

STATEMENT OF LEESA COBB, EXECUTIVE DIRECTOR, PORT ORFORD OCEAN RESOURCE TEAM

Ms. COBB. Good morning, Madame Chairwoman and members of the Subcommittee. My name is Leesa Cobb. My husband is a commercial fisherman on the southern Oregon coast, and I serve as Executive Director at the Port Orford Ocean Resource Team, which is a community fisheries program.

I have submitted written comments, and offer the following summary.

After studying catch share programs worldwide, it is clear that even the most carefully designed programs can have negative impacts to communities, fishermen, and fisheries that should be of concern to all of us.

For example, catch share programs established by sector or gear do not include ecosystem management or marine spatial planning principles, while at the same time ecosystem management is called out by the Joint Ocean Commission Report, and the importance of marine spatial planning has been elevated in this Administration.

Also, vessels exiting catch share fisheries may increase fishing pressure in non-catch share fisheries. For example, when fishers that choose to sell their quota realize an enormous financial gain and exit the catch share fishery, they may then increase our effort in other regulated fisheries, and the spillover effect happens.

I cannot even list one fishery on the West Coast that can withstand additional capital infusion from a catch share fishery.

In a catch share fishery, many ports can suddenly see their access to fish disappear, as quota of something moves out of smaller ports. Serial depletion may occur for some species due to limited spatial controls because, as quotas are consolidated in specific areas, effort increases closer to those home ports.

Catch share programs prevent people from entering the fishery unless they come from established fishing families already owning boats, or are wealthy enough to purchase quota.

For the purpose of the hearing today, let me start by asking why an investment of $54 million in catch shares, and why catch shares to the exclusion of other fishery needs?

I want to emphasize that catch shares are only one tool for fisheries management, and you have heard that several times today. But it seems disingenuous for NOAA to also acknowledge catch shares as only one tool, and then in turn allocate $54 million to exclusively develop catch shares.

NOAA is not offering this funding to help councils decide how to best manage for sustainable fisheries from the list of management options. They are only providing them funding for catch shares.

It is difficult to understand NOAA's push for catch shares. The most confusing aspect of the campaign is a claim made by groups that catch shares will end overfishing. It is the total allowable catch based on good science that is responsible for ending overfishing in any fishery. If the total allowable catch is set at unsustainable levels, the fishery is likely to collapse, regardless of allocating the TAC to quota.

Many fishermen have expressed concern that NOAA's new budget to assist councils with catch shares comes at the expense of funding for science that will actually provide the data to determine total allowable catch that every fishery needs to be sustainable.

I am troubled by NOAA and council saying that catch shares are not a property right. If you can buy and sell quota, take it to the bank and mortgage quota, and if you can fight over quota in Divorce Court, quota is property. It seems the only way to get quota back from second-generation quota holders who have purchased it is going to be to buy it back.

The most important point is the language in the NOAA draft catch share policies. The most ironic point is the language in the NOAA catch share policy that states NOAA encourages councils to take advantage of the special community provisions in MSA to help ensure sustainable fishing communities, and so on.

It is common knowledge that catch share programs improve economic efficiency; and, by their very nature, result in consolidation of the fleet. This, in turn, causes loss of jobs, economic disruption to coastal communities that rely on fishing jobs, and can cause a loss of infrastructure at ports that traditional fishing relies on.

One wonders at an Administration that is concerned about jobs, why catch shares would receive this level of support.

We also know that initial allocation of quota comes at a high social cost. Many fishermen, including captains and crew, are pushed out of these fisheries in an initial allocation, and young fishermen are burdened with the expensive loans to pay for buying their first quota share.

Additionally, in many fisheries, actual fishers are leasing quota from so-called absentee landlords. This sharecropper fishing, where independent fishermen are now fishing for investors, will take money out of fishing communities.

If not carefully regulated, the balance of power between processor and fishers may change greatly, as well. A simplistic, one-size-fits-all approach to fisheries management does a disservice to the diversity of fisheries management options that have proven effective, and others that show promise.

We do know that a catch share program if tightly regulated with low accumulation caps, owner-operator provisions, and opportunities for new entrance can be one way to manage a fishery. Unfortunately, the catch share campaign has now drowned out all the other ideas and approaches to fisheries management in public discourse and among policy makers.

If NOAA decides to proceed with their full court press for catch shares, the following will be critical; they should require NOAA to establish a process for communities to participate in the socioeconomic analysis of catch share programs.

Presently, communities rely on the National Marine Fisheries Service and the Councils' analyses; and frankly, communities don't have the capacity to be able to do this work for themselves.

This process should run parallel to catch share design, so communities can participate as preferred alternatives are selected. Require community quota be provided if communities can show a community development plan and address catch share impacts; require NOAA to set aside funds to mitigate damage to fishing communities from unanticipated problems with catch share programs; and this should be a long-term fund.

Madame Chairwoman and members of the Committee, I listed several other examples, as well.

Thank you for the opportunity to testify today, and I appreciate the opportunity to answer questions.

[The prepared statement of Ms. Cobb follows:]

Statement of Leesa Cobb, Executive Director, Port Orford Ocean Resource Team

Good morning, Madam Chairwoman, Honorable Members of Congress, fellow witnesses, and distinguished guests. I am pleased to testify before this Subcommittee on Catch Shares. My husband is a commercial fisherman from the southern Oregon coast. We fish for Dungeness crab, albacore tuna, blackcod, nearshore live rockfish, and halibut. I have served as Executive Director of the Port Orford Ocean Resource Team's (POORT) since 2001. POORT is a community-initiated and inclusive community-based management organization founded in 2001, focused on maintaining a sustainable fishery and healthy marine ecosystem in local nearshore waters and healthy upland watersheds. POORT seeks to combine the best science and experiential knowledge available to the community to make management decisions that: 1) sustain/improve the habitat and population base of fish; 2) provide high quality, high value seafood products to consumers; and 3) support the economic viability of Port Orford, Oregon. Port Orford fishermen all fish boats under 40 feet and participate in a portfolio of fisheries including salmon, crab, blackcod, tuna, halibut and nearshore fishing. This traditional small boat port has been delivering commercial fish since the late 1800's and today 25% of our 1,200 population works directly on the fishing boats or off loading produce at the dock. Our community is heavily dependent on fishing. That is why we have formed a community-based fisheries project; to sustain our fisheries and livelihood. It is in the capacity as Executive Director of Port Orford Ocean Resource Team that I address you today.

My experience with Catch Shares goes back to 1994 when I joined a group of west coast fixed gear fishermen in asking Congress, specifically Oregon Senators Hatfield and Packwood, to stop the Pacific Fishery Management Council from implementing a blackcod Individual Quota (IQ) program. We were concerned that the process was not transparent, most of the IQ would be allocated to a small group of fishermen, and little outreach had been done to help fishing communities understand how they would be impacted. In 1994 Members of Congress were reluctant to intervene in Council business, but they were concerned, and stepped up to write to the Council requesting a delay in Individual Quota Programs until more was learned about the impacts to fish, fishing communities and fishermen. It is interesting to note that sixteen years later, in 2010, after learning more, I have even more concerns about the impact of Catch Share programs to fish, fishing communities and fishermen. Today I will talk about my most recent experience with Catch Shares being developed for the west coast trawl groundfish program. I will talk about the importance of controls to any catch share program. And lastly, I will talk about the fishing program established in my community that serves as a model, different than catch shares, of how to sustain fish stocks while sustaining the fishing community. But let me start by asking WHY CATCH SHARES?

WHY CATCH SHARES AT THE EXCLUSION OF OTHER FUNDING NEEDS?

I want to emphasize that Catch Shares are only one tool for fisheries management. It seems disingenuous for NOAA to say that they understand Catch Shares is only one tool, and then NOAA in turn allocates $54 million to exclusively develop Catch Shares. NOAA is not offering this funding to help Councils decided how to best manage for sustainable fisheries; they are only providing this money for Catch Shares.

I find it difficult to understand NOAA's push for Catch Shares. The most confusing aspect of the campaign is the claim made by groups that Catch Shares will end overfishing. The Total Allowable Catch (TAC) is based on good science that is responsible for ending overfishing in any fishery. If the TAC is set at unsustainable levels, the fishery is likely to collapse regardless of the method of allocating the TAC. If quotas themselves are set too high, over-fishing will still occur. If fisheries can be managed sustainably using biologically responsible TAC, then there is no reason to privatize the fish by giving away quota.

Many fishermen have expressed concern that NOAA's new budget to assist Councils with Catch Shares comes at the expense of funding for science that will actually provide the data to determine Total Allowable Catch which every fishery needs to be sustainable. I constantly hear at Council meetings that there are not enough resources (money to buy capacity) for the work that needs to be done.

I am troubled by NOAA and the Councils saying that Catch Shares are not a property right. If you can buy and sell quota, take it to the bank and mortgage quota, fight over quota in divorce court—quota is property. Why would the United States privatize and give away this important public resource? I do not believe the United States should go down this path and I do not think NOAA is making public what Catch Shares will do to public ownership of fish.

The most ironic point is the language in the NOAA DRAFT Catch Shares Policy that states:

> *NOAA encourages Councils to take advantage of the special community provisions in the MSA to help assure sustainable fishing communities, including continuation of working waterfronts, fishery infrastructure, diverse fishing fleets, and resource access.*

It is common knowledge that Catch Share programs improve economic efficiency and by their very nature result in consolidation of the fleet. This in turn causes loss of jobs, economic disruption to coastal communities that rely on fishing jobs, and can cause the loss of infrastructure at ports that traditional fishing relies on. One wonders in an Administration that is concerned about jobs, why Catch Shares would receive this level of support.

We also know that the initial allocation of quota comes at a high social cost. Many fishermen, including captains and crew, are pushed out of these fisheries in an initial allocation, and young fishermen are burdened with expensive loans to pay for buying their first quota share. Additionally, in many fisheries, the actual fishers are leasing quota from so-called "absentee landlords" or "armchair fishermen". This share cropper fishing, where independent fishermen are now fishing for investors, will not be good for fishing families or communities.

A number of concerns have been raised about Catch Share social impacts, especially in terms of fairness and equity. Catch Shares will concentrate power in the hands of fewer people, who can turn into quota "landlords" that do not themselves fish, but instead lease their quota to the quota-less. The windfall gains of quota ownership accrue largely to the generation who are fishing when ITQs are implemented, while later fishers have to pay for their quota, hardly an equitable outcome.

If not carefully regulated, the balance of power between processors and fishers may change greatly; processors have greater access to capital and may end up controlling most of the quota. An additional problem is the impact to nonfishing members of small fishing communities who may be harmed if the quota holders sell their shares to other communities, thereby impacting their social and economic stability of their community

A simplistic one-size-fits-all approach to fisheries management does a disservice to the diversity of fisheries management options that have proven effective, and others that show promise. We do know that a Catch Share program, if tightly regulated with low accumulation caps, owner-operator provisions, and opportunities for new entrants can be one way to manage a fishery. The classic example, and one that is mentioned in all the pro-IFQ literature, is the Alaskan sablefish/halibut fishery. However, in practice IFQ fisheries are rarely implemented in this fashion, and generally come under intense political pressure to remove owner-operator requirements and accumulation caps as fishermen age. This eventually creates consolidation that in the beginning was deemed unacceptable.

Catch Shares can reduce the race to fish but are certainly not the only way to do that. Unfortunately, the "catch share" campaign has now drowned out all other ideas and approaches to fisheries management in public discourse and among policy makers. Amidst all of the discussion about catch shares, another approach to fisheries management, community-based fisheries management, has gotten a lot less attention despite its increasing popularity with many fishing communities around the country.

The West Coast Trawl IQ Plan

I have participated in meetings, sent letters to the Council and provided public input at Council meetings—all the time speaking from the outside. The not so subtle message I continuously receive is that this is a trawl program and fixed gear fishermen should mind their own business. I know the reality is that the trawl IQ program will affect species and fisheries that are not included in the program and impact communities and fishermen that are not included in the program.

Problems with the trawl IQ plan:

1. It only addresses one gear group for groundfish and excludes fixed gear and recreation fishermen. Fixed gear fishermen have no idea what the future is for our fishery. The irony is that our gear is the cleanest commercial gear for groundfish and we are completely left out of any planning for the future of groundfish while the fishery is handed over to the gear with the highest bycatch.
2. Vessels exiting from ITQ fisheries may increase fishing pressure in non-ITQ fisheries. Fishers that choose to sell their quota, realize enormous financial gain, and exit the ITQ fishery may increase their effort in other less regulated fisheries—the spillover effect. We saw this in Oregon with the west coast trawl

buyback. Trawlers with their hundreds of thousands of dollars of buyback money moved to crab, salmon and other fisheries and contributed to further overcapitalization of those fisheries. Increased capitalization in west coast fisheries from trawlers selling their quota could be devastating—there is not one fishery on the west coast that can withstand additional capital.

3. In an IFQ fishery, many ports could suddenly see their access to fish disappear as quota simply moves out of smaller ports.
4. The IFQ systems would likely only hasten the collapse of port infrastructure already badly in need of repair, particularly when quota leaves small port communities and fleet consolidation shifts efforts to larger vessels in large ports.
5. Serial depletion may occur for some species due to limited spatial control because effort increases closer to home ports. TACs are still managed on a very large spatial scale (Golden 2005). In its consideration of a limited entry trawl individual quota system, The Pacific Fishery Management Council's Trawl Individual Quota Committee (TIQC) considered alternatives that could have restricted distribution of optimum yield (OY) and access privileges on an area basis. The TIQC's analytical team prepared an analysis titled "On the Need for Spatial Management in West Coast Groundfish Fisheries." Several arguments supporting the need to spatially manage groundfish on a finer scale were made based on the life histories of groundfish, documentation of instances of localized depletion of groundfish, current management practices with spatial approaches, and potential fleet behavior if spatial management of OY is not taken into consideration. Despite these arguments, the TIQC did not recommend the distribution and management of OY on a spatial scale any smaller than presently used. Details of the analysis can be found at www.oceanresourceteam.org. Our concern is that quota pounds will be consolidated, or purchased into ports that will then become the entry and exit point for the fish. We are concerned that quota pounds will end up in Coos Bay, Oregon (for example). This increase in fishing pressure on the grounds will impact the availability of fish to everyone in their region
6. IFQs prevent people from entering the fishery unless they come from established fishing families already owning boats or are wealthy enough to purchase quota.
7. The trawl catch share program proposes to allow trawlers to switch to fixed-gear with no analysis or consideration for how this will impact the fixed-gear fleet. If trawlers switch to pot gear, that gear is left in the grounds continuously and our opportunity to longline will be impacted.
8. The extensive allocation process to cut off trawl quota from other user groups allocated almost all the groundfish away from our Limited Entry fixed gear permits. We had access to fish that is now almost completely gone to us. This devalued our permits with one fell swoop.

The Pacific Fishery Council is aware of each problem with the trawl IQ program but they continue to push ahead.

Better Management

If NOAA decides to proceed with their full court press for Catch Shares the following will be critical:

Require NOAA to establish a process for communities to participate in socio-economic analysis of Catch Share programs. Presently communities rely on NMFS and the Council's analysis. Capacity should be provided to communities to have their questions analyzed so they can be informed participants in the process. This process should run parallel to Catch Share design so communities can participate as preferred alternatives are selected.

Require community quota be provided if communities can show a community development plan that addresses Catch Share impacts.

Require NOAA set aside funds to mitigate damage to fishing communities from unanticipated problems with Catch Share programs. This should be a long-term fund.

Require Councils to include all gear groups and users in a Catch Share program. Piecemeal programs will not work.

Use Catch Shares as an opportunity to promote sustainable fisheries by designing programs to allocate fish to gears that minimize bycatch and discards instead of using fishing history for allocation.

Require each Catch Share program to provide for new entrants to the fishery.

FINAL COMMENTS

There are many different programs to manage fisheries in the United States. Our community program rejected pursuing IQs because it would reward a few and create many losers, while doing nothing to stabilize the economy of our fishing community.

We chose to develop community-based fisheries to help sustain the fish and community into the future. I have included information on our project below.

The next step for our community process is to form a Community Fishing Association(CFA). as provided for in the MS Act. For our community, this would be a framework to secure our opportunity to fish. We would use this framework to hold permits and quota, allowing us to stabilize our community economy as fisheries change.

At this time, no work has been done by the PFMC to provide direction for CFAs, and we can't proceed. At the Sacramento Council meeting last week, fixed-gear fishermen asked the PFMC to set up a CFA committee. The Council declined to do so. Perhaps NOAA could work on this issue.

In closing, I had the experience of traveling to New Zealand with California Sea Grant and a group of commercial fishermen to examine the New Zealand IQ programs. I was shocked at what I learned. Quota is primarily held in New Zealand by processors. Fishermen told us horror stories of the tactics used to push them out of the fisheries, including processors lowering the price for several years so fishermen couldn't make money (bleed them out of the fishery) to the overwhelming amount of IQ paperwork they couldn't keep up with. Fishermen are now unemployed or working for the processors running their boats and fishing the processor quota. Those fishing jobs are low paying; the fishermen commented that if they wouldn't work for the low pay there was another fisherman right behind them that would because they are desperate for work. We asked fishermen how they let this IQ program get away from them, why didn't they have caps on ownership. They responded that they thought they had that taken care of with a hard cap on accumulation from the beginning. But as soon as the processors reached the cap they lobbied successfully to have the cap increased, over and over. Fishermen noted that the local fish and chip houses could not even get fish to serve because it has been allocated away from their communities.

In a question and answer forum, I asked the owner of Sea Lord, New Zealand's largest processor, what happened to their fishing communities when processors ended up with all the fish. His response was, "there were no fishing communities in New Zealand, next question". Ridiculous, the entire coast of New Zealand was one fishing community after another. New Zealand has to rewrite their history to wave off the impacts of IQs to their fishermen and communities. I believe the United States is going to end up in the same situation. I encourage members of the Committee to carefully examine this rush to privatize fisheries.

PORT ORFORD: IMPLEMENTING COMMUNITY-BASED OCEAN MANAGEMENT ON THE OREGON COAST

INTRODUCTION

There is a growing interest in the use of community and ecosystem-based ocean management approaches in the United States. This interest is reflected in the U.S. Ocean Commission's Report to Congress and the Sustainable Fisheries Act, and also evidenced in initiatives underway in Alaska and New England..

Community-based management may be defined as a process where citizens actively participate in local management efforts through defining needs and goals, and making decisions through an inclusive and transparent process. With respect to ocean resources, community-based management allows for consideration of local environmental and economic variables, as well as the integration of community knowledge into the decision making process. Community-based ocean management may also be incorporated into broader, coast-wide management plans, thereby addressing important issues of scale.

The community-based management model can offer a number of significant benefits as a complement to existing state and federal management structures. Foremost among these benefits is an enhanced level of stewardship for ocean resources among community participants. Community-based management is also flexible and adaptive and may result in greater equity and improved compliance with regulations from local pressure. Finally, community-based management can allow for managing complex systems at a finer scale through the integration of local knowledge and the leveraging of collaborative science opportunities.

Our collaborative endeavor in Port Orford, Oregon may provide a viable model for how community-based ocean management may be effectively implemented. One key element to the success of community-based initiatives is the presence of local leadership. In Port Orford, this service is provided by the Port Orford Ocean Resource Team (POORT), a locally run non-profit organization comprised of fishermen and fishing family members. POORT provides the necessary local infrastructure through which community-initiated marine policy and research activities can be carried out. At the behest of POORT, other non-profit organizations and individuals within lead-

ing academic institutions and government agencies are helping identify ways in which the community of Port Orford can actively engage in the management of local marine resources.

BACKGROUND: Port Orford Ocean Resource Team

POORT is a community-initiated and inclusive organization founded in 2001, focused on maintaining a sustainable fishery and healthy marine ecosystem in local nearshore waters. POORT seeks to combine the best science and experiential knowledge available to the community to make management decisions that: 1) sustain/improve the habitat and population base of fish; 2) provide high quality, high value seafood products to consumers; and 3) support the economic viability of Port Orford, Oregon.

POORT was created in large part because local fishermen felt disenfranchised from the existing top-down fishery management system during a period of increased restrictions. Over the last decade this historic fishing community has lost its longline fisheries, experienced dramatic losses in revenues as a result of declining salmon stocks, and survived a boom and bust urchin fishery. Forty boats using fixed gear currently fish out of the Port of Port Orford, targeting groundfish (including several rockfish species for the Asian live fish market), Dungeness crab, albacore tuna and blackcod.

As a local non-profit organization, POORT works to empower fleet members and other citizens to participate in bottom-up ocean management efforts. These activities include a significant focus on collaborative science and stewardship, as well as marketing of local seafood products.

POORT'S COMMUNITY-BASED PROCESS

The POORT process is guided by a formal board of five fishermen. The POORT Board functions as the ultimate governing body of the community process and is charged with advancing POORT's vision of a sustainable fishery and healthy marine ecosystem. As such, the POORT Board provides a transparent and functional mechanism for decision-making—a key element to the success of any community-based process (Dalton 2006).

The POORT Board's efforts are closely connected to the broader fishing fleet. Facilitation is provided by staff from POORT and partner organizations to assist fleet members in developing common goals and objectives and determining alternatives for action. Fleet meetings also include an educational component, as a recognized prerequisite of empowerment at both the individual and community. Recent meetings have included presentations on topics such as rockfish reproduction, state and federal management authorities, and design considerations for marine protected areas (MPAs).

The POORT process includes formal input from a Community Advisory Team that provides recommendations and expertise to the POORT Board and project partners. Comprised of stakeholders and community leaders, the Team is intended to reflect the interests and concerns of the broader Port Orford community. Engagement of the Community Advisory Team ensures that different segments of the community are formally represented within the POORT process. Such diverse participation is important for improving understanding between different groups and can also facilitate development of stronger solutions by community participants.

The Community Advisory Team also includes a staff representative from the Oregon Department of Fish and Wildlife (ODFW) to ensure that community planning efforts are connected to existing management. By involving agency staff early in the process, greater trust and communication may be realized to support the community's efforts to implement co-management strategies.

THE ROLE OF SCIENCE

A critical factor in implementing community-based ocean management is the collection and application of relevant scientific information. POORT is therefore in the process of developing a collaborative research program to be run through the local science center. Collaborative research programs provide opportunities for people with diverse interests in fisheries to collectively resolve complex issues.

To inform development of this program, POORT staff regularly convenes meetings with fishermen to identify important research questions, data gaps, and monitoring priorities. During 2007, staff and board members are collecting local ecological knowledge from fleet members through personal meetings and facilitated forums. An at-sea project to gather information on population dynamics of nearshore rockfish species is underway.

POORT has also collaborated with Oregon State University, ODFW and NOAA Fisheries to create a Geographic Information System (GIS) product that includes geologic, bathymetric, and fish habitat information.

Finally, POORT recognizes that an advisory group of scientists that can provide oversight and expertise for local research and management efforts is necessary. Accordingly, POORT and its partners are currently assembling a technical team representing various marine science disciplines and affiliations.

STRATEGIES FOR CITIZEN ENGAGEMENT

To ensure transparency of the community process and promote ocean literacy, POORT sponsors two public forums each year. Such forums provide an important mechanism for disseminating information and bringing together different stakeholders from the community. The first of these forums was held in June 2006 and titled Orford Reef: Our Heritage, Our Future. The event featured a short film on the reef, as well as presentations from fleet members and project partners. Over 180 people attended, including community members and representatives from agencies and non-profit organizations. In January of 2007, POORT and its partners sponsored a second public forum coinciding with a local meeting of the Oregon Ocean Policy Advisory Council (OPAC). Additional public forums have been held each year.

POORT has also recently established a water quality testing laboratory in partnership with Pacific High School and the Surfrider Foundation. The lab supports a volunteer-based program that provides water quality data for four locations within the area. Sampling and lab analysis is conducted by Pacific High School students, Surfrider members, commercial fishermen, and other interested volunteers. In addition to providing important educational and citizen involvement benefits, the program also provides a platform for POORT to address land-sea connections as part of an ecosystem-based approach to management. In 2009 POORT worked closely with the city of Port Orford to amend the storm water ordinance that provides valuable protection to the nearshore environment.

LOOKING TO THE FUTURE

To realize its vision of a sustainable fishery and healthy nearshore ecosystem, POORT has established a Community Stewardship Area. The Stewardship Area would encompass the community's fishing grounds and associated watershed, and provide a framework for managing local ocean resources at a finer scale and more integrated fashion. The intent is to maintain public access to the resource for those who are fishing selectively, while also conserving the marine biological diversity of rocky reefs and surrounding waters.

Planning for the Stewardship Area has been conducted in a transparent and inclusive manner within Port Orford, consistent with POORT's community-based process. The project has also cemented longtime partnerships between POORT and the Pacific Marine Conservation Council, Surfrider Foundation and Ecotrust, who provide a variety of support services for local planning efforts.

As a critical element of achieving designation of a Stewardship Area, POORT is working to secure policy space for its community process at the state and federal levels. While POORT's current efforts do provide significant benefits to both the resource and community, the full benefits of such a process cannot be fully realized without formal recognition and authority sharing from government agencies. As such, POORT is exploring alternatives for co-management of local ocean resources with relevant agencies and management authorities.

Although the activities of POORT remain centered in the community of Port Orford, an increasing number of managers, fishermen, scientists, and elected officials throughout the state have expressed interest and enthusiasm for this approach to ocean stewardship. While still an evolving process, the Port Orford Community Stewardship Area initiative holds significant potential as a model for how community and ecosystem-based ocean management principles may be successfully implemented.

Golden, J. 2005. On the need for spatial management in west coast groundfish fisheries. Pacific Fishery Management Council, Portland, Oregon.

Response to questions submitted for the record by Leesa Cobb, Executive Director, Port Orford Ocean Resource Team

Questions from Chairwoman Madeleine Z. Bordallo (D-GU)

1. What advice would you give to other fishing communities who are interested in community-based management?

I would advise fishing communities who are interested in community-based management to:

a. Engage local leaders to launch the program. If local folks need leadership training, make sure they get it.

b. Include everyone who wants to participate, and seek out those who do not know they need to be at the table—bring them in.
c. Always work with conservation and other interests even if it's difficult. Build the relationships from the beginning.
d. This is a place-based program. Bringing people to "the table" means bringing them to your place, your community. Don't let folks use conference calls and email to replace traveling to your place and working with your people.
e. This is a bottom-up program that ultimately has to be endorsed by the folks who run the top-down process. Get those folks on board early to provide political cover. If you do not, your program will be a great idea that never gets implemented because ultimately the power is at the top (until we can change it!).
f. The program must work on the principles of the triple bottom line: ecology, economics and equity. Each project must consider all three, people, planet and profit to bring the best results to the resource and the community.

2. In your testimony you mention quota as a property right and the possibility of the government having to buy it back from the second generation quota holders. What would be the situation that would cause the government to take quota back?

The government of New Zealand had to buy back quota when they did not include recreational fishermen in one of their quota programs. This cost the government millions of dollars "buying quota was the only way to reissue it.

A very real example is the West Coast groundfish trawl IQ program. Legal issues about allocation between user groups could be raised because this is a trawl only program. Once the quota is out the door to trawlers, issued to fishermen who begin to sell it, the only way to get it back to fix a legal problem will be to buy it back.

3. Has the Pacific Fishery Management Council supported your community in developing a Regional Fishery Association? What would this Association look like?

We have been waiting for the Pacific Fishery Management Council to provide guidance on Regional Fishing Associations (RFAs) so we can begin work. Finally, with no action by the Council, several fishermen asked the Council at the March, 2010, meeting to form a committee to begin working on details. The Council declined to form a committee. Council guidance for forming RFAs should have been running parallel with developing the trawl IQ plan so communities can be prepared for the negative impacts coming their way. Implementation of the trawl IQ plan should be put on hold until RFAs are formed in the communities that are ready to move forward.

In our case, a Port Orford RFA would be a business framework to hold permits and quota to help stabilize our fishing community's economy. Just as a marine reserve can provide resilience for fisheries, a RFA can provide resilience to a fishing economy.

Ideally, the community RFA would inform the Council, with documentation, the anticipated negative impacts of the trawl IQ program and negotiate for initial allocation of quota to provide for mitigation. This of course will not happen, because the Council has not provided guidance for RFA's.

4. What is the most important thing NOAA could do to help your community?

We would greatly benefit from formal recognition of the Port Orford Stewardship Area by NOAA. We want to partner with NOAA on local research and stewardship efforts. We have an amazing local program, built from the bottom up. But we have to have recognition and support from the folks at the top. We need this policy space, for example, so we can talk to the Council about solutions to local problems. The PFMC Groundfish Advisory Subpanel told me very clearly that they are not considering place-based problems or solutions. We can't move forward with science-based, sustainable solutions that we know will help our local fisheries—we need NOAA's help with the policy space.

Port Orford Ocean Resource Team could be a NOAA pilot program for community-based fisheries management. NOAA would use our successes and challenges to inform other place-based fisheries programs in the country. Most importantly, NOAA would work with the community to build a local research field station to gather important data on local fisheries and the broader California Current that will inform both local area management, and coast-wide management.

If we could get NOAA's support for our program, including a local research facility—it would be like we won the fishing lottery!

Questions from Republican Members

1. Are you opposed to all catch share programs or do you primarily not like the Pacific Council's trawl catch share plan.

I am opposed to privatizing fisheries. I believe privatization of fisheries offers up an immense benefit to corporate interests and I have serious concerns about the negative impacts to fishing communities and fishing families from Catch Share programs.

The EIS for the trawl IQ program provides extensive information about anticipated negative impacts to communities and the fixed-gear fleet. The analysis is done, and then nothing...no change in the plan to address the negative impacts. That process, of asking the question and ignoring the answer, shows me that a process to protect communities and fishermen from negative impacts of the trawl program does not exist and it will not exist for Catch Share programs.

2. You mention the North Pacific halibut plan and seem to think it has many of the components that might be desirable in a catch share plan. Many of those components came in stages as the North Pacific Council amended the plan. Do you think it is possible for a council to anticipate all of the needs of fishermen and communities with the first draft of a catch share plan?

Yes, I believe the fundamental needs of fishing communities and fishing families can be anticipated and addressed in the initial design of a Catch Share program. Most importantly, how will the Councils address negative impacts by changing the program? The fish has already been given away, the quota allocated, the fishery opened up to non-spatial management. You can't un-ring the bell.

If you're asking if I think Councils can fix the problems as they go, no I do not believe that is even possible.

An example is the comment made by a member of the PFMC staff about spatial management when I asked how we can protect fishing communities from trawl IQ consolidation, and subsequent serial depletion of fish on the fishing grounds near areas of consolidation. The staffer said, "If that happens, we can just go back and add some spatial management lines". Was he joking? The notion that a quota owner would blithely accept new spatial lines and regulations on where he can fish his quota is ridiculous? He bought the quota and paid the asking price with no restrictions, and now he has to run 500 miles to fish it? That adjustment to the trawl IQ plan will not happen without compensation to the quota owner.

3. You are concerned about "absentee ownership". Should councils require owner-on board provisions?

Yes, Councils should require owner-on-board provisions for fisheries that have traditionally been fished by boat owners.

For fisheries that do not have a historic operating structure of owner-on-board, Councils should consider as part of the EIS analysis how owner-on-board provisions might help the fishery, fishing communities, and fishing families. In the case of traditional corporate ownership it may, or may not be appropriate.

4. Your members fish in a limited access fishery. This type of system requires new entrants to purchase an existing permit. How is this different from a catch share fishery where a new entrant must purchase quota to enter the fishery?

The difference is the design of the programs. A Catch Share fishery is designed for consolidation, quota can be broken down to small pieces, and ownership has few limitations. The fixed-gear limited entry program can't be broken up into pieces, it is a permit, not pounds of quota that can be split up and moved around.

In addition, Catch Share quota can be leased and mortgaged because the resource is owned by the quota owner. The fixed-gear permits can only by leased by first generation owner. Second generation have owner-on-board requirements to keep the fishery in the hands of fishermen.

5. You mention that "if not carefully regulated, the balance of power between processors and fishers may change greatly." If a council decides to transform a fishery into an ITQ fishery, how would that balance be shift? Should councils take processor investments in the fishery into account in developing a catch share fishery?

It seems pretty simple to the fishermen I work for; if the processors own quota they can further control the market. When processors control the market, they can lower the price to the fishermen.

An example can be found in New Zealand, when Leigh fishermen told us after quota was issued, and processors gained a solid holding, the price was lowered to such a low level they could not afford to fish. There was not profit to be made. The processors could wait them out. The fishermen don't have lines of credit and operating capital to be able to wait out the processor until the price goes back up and fishing becomes profitable. On the reverse side, the processors do have lines of credit and operating capital so they can wait until the fishermen are out of business, buy their quota, and go back to selling the fish. This can happen in just two or three years.

Interestingly, today in New Zealand processors own most of the fisheries quota. We asked NZ fishermen what happened; why did they let this happen? They said the initial quota programs had ownership caps that should have protected fishermen from processors controlling the fishery. As the processors bought quota, they began to lobby for increasing the ownership caps. In a short time, processors owned enough quota to be considered part of "the industry", and if industry wanted to increase ownership caps in their fishery—why not, the caps were increased.

I do not support PQ or initial allocation to processors. Unfortunately, having to deal with processor quota is just one of the really tough downsides of going down this path of Catch Shares. The reality is that it would completely disrupt the market forces in the fishery to give out quota to processors.

Ms. BORDALLO. Thank you very much, Ms. Cobb, for your useful input. I will now recognize the members of the Committee for any questions that they may ask, beginning with myself.

I have a few questions for Mr. Schwaab, the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration. I think what I really want here is just a no or a yes for the record, Mr. Schwaab.

Do you agree that good science is fundamental to good fisheries management? Do you agree that many in the fishing industry have concerns about the science being used to make management decisions?

Mr. SCHWAAB. Yes, and yes.

Ms. BORDALLO. Good, excellent. Number two. Do you think NOAA has prioritized catch shares over science, by asking for a big increase in the catch share budget, but not in data collection programs?

Mr. SCHWAAB. Madame Chairwoman, no. We obviously have placed some significant investment in catch shares as a means to address some of the management challenges that we face in new ways. But as I indicated in my testimony and provided in more detail in my written testimony, we have also continued to invest heavily in other aspects of our fisheries management challenges, including significantly in data related to both recreational and commercial activities, as well as in other science and stock assessment work.

The last point I would make is that a significant amount of the investment in catch share dollars will, in fact, yield important new monitoring and observer data, which will contribute to our overall science picture.

Ms. BORDALLO. Good. Now, this one you may have to explain here. How will NMFS prevent the consolidation and the migration of catch shares away from coastal communities to ensure the protection of fishing communities?

Mr. SCHWAAB. There is significant latitude in program design and implementation, and I think we have already seen a number of tools that have been developed and built into some of these program designs, both as it relates to the limits in the amount and type of ownership that might occur, as well as some limits on transferability.

So we see things like community shares, small boat and processor provisions. We also see innovative approaches like permit banking to protect the interests of small, remote communities and others who we are concerned about through a socioeconomic process.

But I would just conclude by saying we depend very heavily on the Councils, sort of from the ground up, to build the specific design elements that are required to meet local, social, and economic desires.

Ms. BORDALLO. Thank you very much. Now I will go to Dr. Fina, Mark Fina. What are the top three things you would change in the Alaska Crab Catch Share program, if you could, to protect fishing communities?

Mr. FINA. Madame Chair, I think one thing that we probably would have done at the onset of the program that we didn't do at the time, but I don't know how much we can go back to it, is I think vessel caps were one issue.

The consolidation in that program was very fast. I think there were a number of jobs lost by crew. The nature of crew jobs changed, and I think there are some merits to the way crew jobs changed, as well as some problems with respect to it. But I think that's one aspect that I think we would have had a graduated cap, where the caps maybe start at a more restrictive level, and then become looser over time, to ease that transition.

A couple other aspects that I think that right now the Councils are already working on that are important to the fishery, we are looking at changes in the community rights of first refusal on processing shares, that communities currently have a right of first refusal on transfers of certain processing shares where the community can acquire those shares. We are working to try to make that a more effective program.

Communities, at times they don't have the resources to acquire those shares. Also, the way the right is structured right now, it requires communities to make, at times, substantial investments to exercise. So that is another area that we are looking at, and that we may be able to make some improvements that will benefit some of the small communities that derive a significant benefit from processing.

Ms. BORDALLO. Thank you. I asked you for three, you gave me how many?

Mr. FINA. I gave you two so far.

Ms. BORDALLO. Two. A third.

Mr. FINA. A third one that I would look at is another one that I think the Council is trying to work with. It is as much a community issue as a fishery issue. We are looking at changes in the way the regionalization program works, to allow certain exemptions to regionalization.

In some cases there are safety issues that can arise, particularly in the North region, in the Pribilof Islands, with ice. What we are trying to do is achieve a balance that will allow fishermen the flexibility to redirect deliveries to other locations when icing is a problem, but yet maintain the integrity of the regionalization program for the communities, particularly in the Pribilofs.

Ms. BORDALLO. Thank you. I have one quick question, and then I will turn to the Ranking Member for his questions.

Dr. Rosenberg, what are some examples of what decision makers can do to provide neutral forums to discuss catch share program design and improve trust and communication among the fishermen, the managers, and the scientists?

Dr. ROSENBERG. Thank you for the question, Madame Chairwoman. I think that is a really critical issue for design of programs. One of the opportunities would be to have some of those design discussions outside of a strict regulatory framework.

Once you are into the council process and the process on the regulations with the Fisheries Service, you are into a rather stilted regulatory discussion, in my view. If there is the possibility to have open fora that are not decision-making, and may or may not impact on the regulations, where people don't have to take any final positions, then you might have a more open dialogue. And then some of the design questions could be put on the table.

That is really a more speculative process. It is difficult to get people to engage, because fishermen and everyone else are very busy. But it would provide an opportunity for a discussion that isn't on an immediate regulation that is sitting in front of you, where you have to take a position in favor or against.

Ms. BORDALLO. Thank you, Doctor. And we will have a second round for the Members here.

I would like to recognize the Ranking Member, Mr. Brown.

Mr. BROWN. Thank you, Madame Chair. Mr. Schwaab, if I might ask you the first question.

When will the Atlantic red snapper stock assessment be completed? And will this give the Council time to approve fishing measures for the summer? Or do you expect the closure to be extended?

Mr. SCHWAAB. Thank you, Mr. Brown. The current schedule will provide the information for the Council by the end of 2010. So we expect that we will be dealing with the current directed fishery closure, and the potential of a broader area closure, through 2010.

Mr. BROWN. I know they were talking about moving the lines along the coast, the Eastern Seaboard. Is there any movement there to establish some firm lines?

Mr. SCHWAAB. Yes, sir. The current council proposal, as I understand it, is focused on a slightly, a somewhat reduced area closure over the one that was initially proposed. That is under council deliberation now, as we speak.

Mr. BROWN. Do you have an idea when they might make that choice?

Mr. SCHWAAB. My understanding is it will be at the next, at the next council meeting later on this spring. But I don't have an exact date for you, sir.

Mr. BROWN. OK. When will that take effect, do you think?

Mr. SCHWAAB. You know, rather than try to get into the sort of the nuances of the current emergency action versus the timing of the proposed closure, would you mind if I got back to you with specifics on that?

Mr. BROWN. OK.

Mr. SCHWAAB. Thank you.

Mr. BROWN. Because we have a lot of people in the Charleston area, which I represent, whose livelihoods depend upon it, and it is very critical for them.

Before you established the catch share program, what method did you have to determine how many fish were being taken, say on a daily basis, out of a certain area?

Mr. SCHWAAB. Well, in general for the commercial fisheries, those include a variety of direct harvester reporting, as well as dealer reporting. In the recreational sector that is based largely on sampling, previous MRFSS data is now migrating into the new MRIP system.

Mr. BROWN. Under the catch share program, I know we heard testimony from some of the other people, too, that you are going to set quotas for the commercial fishermen. How would you address just the recreational fishermen? Will they have quotas, too? Or how does that, how do you plan to implement it?

Mr. SCHWAAB. Sir, the basic framework of setting annual catch limits is essentially the same, regardless of the management system, on a gross sense. From the perspective of most fisheries, there is some established allocation of that total annual catch between the commercial sector and the recreational sector.

If you move into a catch share system for the commercial sector, what you see, then, is that that annual catch limit then gets assigned down to individual harvesters or other parties in the process. On the recreational side, generally you would see continued management under sort of a broad share of the annual catch that is assigned to the recreational sector and managed through traditional seasons and size limits and bag limits and the like.

Mr. BROWN. So you would restrict so many takes per day, or so many takes per season per recreational fisherman? Or how would you allocate those resources?

Mr. SCHWAAB. Yes, so basically it would be similar to the system that is already in use for most recreational fisheries, where there is one broad share of an annual catch limit that is assigned to the recreational sector. And then that is managed across the recreational fishery through seasons, size limits, and the like.

And then we use the recreational catch and effort data essentially after the fact to monitor compliance with that total catch limit that has been established.

Mr. BROWN. Is it true, on the commercial fishermen's side, that you can barter with the quotas?

Mr. SCHWAAB. Well, under catch share systems there are provisions for assignment leasing, trading of quota, in a number of the systems that are in place.

Mr. BROWN. So they can trade them, you can buy and sell them based on something?

Mr. SCHWAAB. Which provides one of the real advantages as you try to manage, particularly in mid-stock fisheries, bycatch issues,

and move quota back and forth to take advantage of what is brought on board within the limits of quotas that have been established.

Mr. BROWN. What would denote value?

Mr. SCHWAAB. I am sorry, sir?

Mr. BROWN. What would denote value in the trade? If you want to buy some of this other guy's quota, how would you establish the value?

Mr. SCHWAAB. Under most circumstances, those would be market transactions.

Mr. BROWN. OK. Thank you, Madame Chair. Thank you very much.

Mr. SCHWAAB. Thank you, sir.

Ms. BORDALLO. I thank the Ranking Member. Now I would like to recognize the gentlelady from California, Mrs. Capps.

Mrs. CAPPS. Thank you, Madame Chair. Thank you for holding this hearing on this important topic. I appreciate the testimony of all of our witnesses today.

I think this is an important topic that we all are involved in. Catch shares, when properly designed, I believe can have strong economic and ecological benefits. I say this as someone who represents several fishing communities on California's central coast, struggling to keep their industry going.

Prices for fuel and gear are going up. There are severe restrictions on groundfish fisheries. Many fishermen are finding that the cost of navigating regulations is just too high to stay in business.

Now, I think we all know there is no silver bullet for managing our fisheries. But I believe today's hearing is very important, for no other reason than to begin a discussion on ways to help our struggling fishing communities, and how catch shares might play a role in this.

So Mr. Schwaab, again, you may be aware of the innovative partnership in Morro Bay in my district, on the Pacific coast, between fishermen, the harbor district, and conservation groups. This community fishing association, which the local fishers feel very strongly about, was established by them to preserve the heritage of the local fishing industry, as well as to create stable, economically viable fishing opportunities, for them, and perhaps even for their children.

So my question to you. By providing a catch share quota to entities like community fishing associations, giving them the quota, or cooperatives, however it is designed, what types of benefits would you hope to see? That they could envision. Mr. Schwaab.

Mr. SCHWAAB. Congresswoman Capps, thank you. Good question. I am somewhat familiar with the example you describe.

I think there are a variety of benefits that can be derived from catch share systems, some of which we have already mentioned, providing greater latitude to individual fishermen in making decisions about when they fish, when they bring the product to the market, the opportunity to maximize value, to take advantage in mixed-stock fisheries, some of the bycatch issues that we deal with more directly, and manage them more effectively.

Certainly in some catch share systems, design allows for meeting certain local socioeconomic goals, like retaining quota share in a

particular community, or within a particular segment of the fishery. There certainly are also opportunities to accommodate new entrance into the fishery from a particular community.

I also think, and I think one of the things, as I understand what is happening in Morro Bay, there is an opportunity to experiment with different fishing techniques, and take more of an adaptive approach to going out and fishing to target most effectively the most desirable product over time. Thank you.

Mrs. CAPPS. Thank you very much. Dr. Rosenberg, I have a couple of questions for you.

We have seen that a carefully designed catch share system can contribute to the sustainability of the resource, the value of the fishery, and the economy of fishing communities. At least, that is the witness that I have.

We also heard that scientific research brings significant improvement, when that is the basis for deciding the quota and all the rest, to catch shares. I think you would agree that rigorous science is the best way to understand the health of our fishery resources.

So my question is, how can we ensure that the best scientific research goes into the design—I mean, really up front—of catch share programs, while taking into account different fisheries and different fishing communities, the science to then be reflected in that way.

Dr. ROSENBERG. Thank you, Congresswoman, for the question. I think this is an important issue. Of course, when we think about fishery science, we often mostly focus on the biological sciences. And we want to know how many fish are in the sea, and their production rates, so that you can estimate sustainable yields. That is necessary for catch share systems, but it is necessary for any fishery management system.

I think for the design of catch share systems, we need a much greater emphasis on the social and economic analyses, particularly the economics, because it is easy for different groups, from any particular perspective, to maintain a particular set of impacts will occur. But that is different from actually going through the analysis to try to put information in front of all stakeholders.

Mrs. CAPPS. Can I just push this one question? Because I appreciate where you are going with that answer.

In other words, how do you feel that should catch shares be allocated, what steps can be taken to limit consolidation, then? As one aspect of the local economic factors.

Dr. ROSENBERG. Well, again, I think there is an economic analysis and a financial analysis that needs to occur on the potential for consolidation, as well as what would be appropriate ways to mitigate that tendency for consolidation.

Mr. Backus suggested community associations as holders of quota. That may work in certain situations, but not in others. Certainly there are other kinds of structures that have been used in the North Pacific to try to limit consolidation.

I think it depends upon an actual analysis of what the financial conditions are for many of the businesses within the fishery, and probably multiple communities. I think Ms. Cobb referred to the need for people to be engaged in that discussion directly.

Now, that can happen through the usual Magnuson-Stevens and NEPA process, but it doesn't always happen in a very helpful way. Because many times the social and economic analysis sort of follows on the design of the regulations, as opposed to preceding the design of the management system in the regulations.

And so turning that around such that there is more analysis up front would be very beneficial.

Mrs. CAPPS. Thank you. I apologize. I just really believe this hearing begs the need for more hearings on this topic. Many, many unresolved questions and concerns.

Ms. BORDALLO. I agree.

Mrs. CAPPS. Thank you very much.

Ms. BORDALLO. Thank the gentlelady from California. Now I recognize the gentleman from Louisiana, Mr. Cassidy.

Mr. CASSIDY. Thank you, gentlemen and lady. So, Mr. Schwaab, best as I can figure out from what you guys are telling us is that in a sense, we have put in stone how much fishery is going to commercial, how much is going to recreational, to an extent. A little bit of tweaking back and forth.

It seems you have, but it seems like the two systems don't work well. It would seem like we are applying the same system to two different entities.

If more people buy boats, in a sense you have more new entrants into the recreational field, but you are not really allowing those new entrants. They are buying boats, they are buying rods, reels, a growing population on the coast, et cetera. But they hit their allocation sooner, so therefore you squeeze down their allocation. Their season, if you will. Their allocation remains constant, but you squeeze their season.

Now, the commercial guys consolidate—your testimony was very good—the consolidation of the commercials is expected. But in the recreational, there is consolidation, but it is by season, not by market. Do you follow the distinction I am making? It actually seems discriminatory against new fishermen, if you will.

Mr. SCHWAAB. Thank you, Mr. Cassidy. I think the circumstance you describe is not a function of the catch share system, it is a function of many of the management systems that have been in place for a long time, that have established longstanding allocations between recreational and commercial sectors.

Mr. CASSIDY. So is there an ability to move the line back and forth between recreational and commercial?

Mr. SCHWAAB. There is certainly that ability within the council process now, independent of catch share systems. I think one of the things, as we develop this catch share policy, that we are focusing significant attention on, is the way in which catch share systems might actually provide an additional mechanism for, for quota or share of the catch to move back and forth between sectors.

Mr. CASSIDY. Now, that seems counter-intuitive to me, because I have heard here that there is this corporatization of the commercial market. And life has taught me that once you have investors investing in a commercial commodity, property, as I think one of the fellows said you can split it up in Divorce Court, that it becomes more and more written and concrete. It takes a Divorce Court to split it.

It actually seems no, it is going to be increasingly difficult to allocate a greater percentage to the recreational people. Is that not true?

Mr. SCHWAAB. I am not sure there are a lot of examples of allocation under current management systems moving significantly in one direction or another to accommodate the kind of concerns you describe.

What I would submit is that properly designed catch share systems may allow, through a market mechanism, the recreational sector to purchase and move shares over into that common pool that is available to meet the kind of growing demands that you describe, and we all witness, in the recreational sector.

I am not saying it is the only way, but I think it is an additional way.

Mr. CASSIDY. So theoretically, just to pursue that, theoretically, OK, you have 75 percent going to the commercial, 25 percent to recreational. That some entity, the State of Louisiana, for example, could buy 15 percent of the 75 percent, move it over to recreational, and you would lengthen the season? Is that possible?

Mr. SCHWAAB. Theoretically, yes. The means by which to manage and control that is something that we are focusing attention on——

Mr. CASSIDY. Now, again it seems a little counter-intuitive, because again, I think I learned from the gentleman from Ecotrust that as the fisheries return, that as opposed to eliminating the catch share system, if you will, actually the property becomes more valuable. If you get 10 percent of the catch and there is more catch, then you actually have a more valuable product, which increasingly prices it out of the range of anybody but investors.

It almost seems we are on this inevitability of a corporatization. Is that not true?

Mr. SCHWAAB. It is true that, under most commonly designed systems, the share becomes more valuable as the annual quota grows in size. So if the percentage remains the same, actual numbers or amount of fish increase.

Mr. CASSIDY. It almost seems it would be better, if you will—and tell me if this has been done—that you have a catch share that is based upon an absolute amount, not upon a percentage. So, the absolute amount of the fishery grows, hits a ceiling. You have this amount, but whatever comes on top is then shared with the broader society.

Now, is that done in any of these?

Mr. SCHWAAB. To my knowledge, Dr. Rosenberg says yes, I mean, it certainly could happen.

Mr. Rosenberg, do you mind? Dr. Rosenberg. I am sorry.

Dr. ROSENBERG. That is fine. The New Zealand system tried it that way, and it was really problematic. Then they have to buy it back into a percentage-share system. Because the difficulty is that stocks can go down, as well, due to natural variability, as well as due to overfishing.

Mr. CASSIDY. So in New Zealand, did they actually create more shares? Or did they just allocate that to the recreational guys, since the recreational guys are the ones that get squished, it seems, if there is any shortcoming?

Dr. ROSENBERG. That was in the specific case I am thinking of, it was a commercial-only fishery, so there wasn't the recreational problem. It may or may not be the case that recreational gets squished, as you described it. As stocks improve, that is not necessarily the case.

Mr. CASSIDY. I just know that our red snapper season is getting squished.

Dr. ROSENBERG. Well, it is the status of the stock, not the catch share system, though.

Mr. CASSIDY. Yes, thank you.

Ms. BORDALLO. I thank the gentleman, and would now like to ask for unanimous consent that the gentleman from Washington, a member of the full Committee, Congressman Jay Inslee, be allowed to join us on the dais for this hearing.

Hearing no objection, so ordered.

Our next Member to be recognized is the gentlelady from the Virgin Islands, Ms. Christensen.

Mrs. CHRISTENSEN. Thank you, Madame Chair. I am between two hearings, so I am sorry, I may have missed some of the questions.

But Administrator Schwaab, I hope this hasn't been asked; it probably has in one way or another. But given all of the differing reports on the successes and failures of catch shares and the many possible pitfalls, why is NOAA so committed to them? Why not use more of that $54 million to provide better data collection, expand monitoring, so that we can have reliable annual catch limits? Since everybody agrees that that is really what reduces overfishing.

Mr. SCHWAAB. Thank you, Ms. Christensen. I would submit that we have to do both, and that we are doing both. On the one hand, we have to increase our understanding of the status of stocks and the timeliness of that understanding. And we are continuing to invest there.

At the same time, we have to seek new management approaches that allow us an opportunity to move beyond some of the traditional management approaches that have, in too many cases, failed us over time. By investing fishermen in the growth of stocks, by providing to fishermen more latitude to manage individual quotas, with more freedom to time markets to take advantage of availability of fish—with one eye on the present and one eye on the future—will, on the management side, help to move us forward in the same way that we move forward on the science side.

Mrs. CHRISTENSEN. I see. These two are probably not, don't have to be mutually exclusive of each other, but I have been interested in the fish habitat partnership-type program as a way to address our fishing challenges. Because it brings everyone in the community together, every stakeholder together, and develops a more comprehensive approach to managing our fisheries, and hopefully gets some, builds consensus, which is very difficult to reach.

Does NOAA support these habitat partnerships? Is there funding in the budget to support the development of them?

Mr. SCHWAAB. Yes, a big focus of our attention continues to be devoted to habitat. In a prior life, I actually helped to develop the National Fish Habitat Action Plan, which became the basis for

these fish habitat partnerships and legislation that is before Congress now.

Let me make one quick observation, and that is that I think the opportunity of improving fish habitat addresses systemic failures on the ecosystem side, in the same way that the opportunities associated with catch shares provide us an opportunity to address systemic failures on the economic side of the equation.

Mrs. CHRISTENSEN. OK, so they could work collaboratively.

Mr. SCHWAAB. Absolutely.

Mrs. CHRISTENSEN. Ms. Cobb, what, to you, are the main differences between Port Orford's community-based management efforts and catch share? What are the main important differences?

Ms. COBB. Sure. Well, I can use, for example, the trawl catch share program on the West Coast that is being developed right now, versus our community-based program.

The difference is that in a catch share program, quite often the Councils are looking at quota that goes to individuals. In our community-based program, we are looking at what are solutions for our entire community. It is very place-based, so that our community can continue to fish sustainably. But also so that our economy will be sustainable, as well.

So really, our project in Port Orford is about the triple bottom line; it is about the economy and ecology or conservation, and it is about equity and access. Catch share programs, while they have the potential to address those, don't emphasize those at all.

Mrs. CHRISTENSEN. It sounds like something more akin to what my community might be interested in putting together.

Dr. Fina, like many in this room today, you ascribe to the belief that there is not one approach that can be tailored to every fishery. We have, I mean, the Virgin Islands only has 120,000 people total on all three islands. Our fishery is small.

What type of fishery do you think catch shares would be best suited for? And are they suited to small communities like mine?

Mr. FINA. Madame Chair, that is a difficult question. Usually, we look at them in the North Pacific as generally local questions, as to whether, whether the fishery itself and the participants and the stakeholders are ready to make that type of a transition into a catch share program. We do it typically through a pretty long process in front of the Council.

But I think that a lot of it depends on whether the participants in the fishery are ready for that kind of transition.

Ms. BORDALLO. I thank the gentlelady from the Virgin Islands. Now I recognize the acting Ranking Member, Mr. Wittman from Virginia.

Mr. WITTMAN. Thank you, Madame Chairwoman. Members of the panel, thank you so much for joining us today; we appreciate you taking your time out of your busy schedules.

Mr. Schwaab, I will begin with you. I sense a growing level of frustration by both recreational and commercial fishermen with the various tracks on management of our fish stocks. I know a month ago there were a number of folks here in Washington, and just last week a number of recreational fishermen, again expressing their frustration, and I guess a feeling of disenfranchisement in this process.

So what I wanted to ask is, is there a way that we could do a better job of recognizing the important role that fishermen and communities have in our overall management strategies, and how they affect our local communities? I know you spoke a little bit, or have spoken here a little bit about how the Councils can keep in mind the social and economic impacts of their decisions.

But it seems like to me there is potentially a growing divergence in the agency's track on managing fisheries and fishermen and communities. I would like your thoughts about how we can maybe bring that back on track. Because we all know that the association between communities and sustainable fisheries is extraordinarily important.

We have seen a lot of changes in that through the years. I want to get your thoughts about how you think we can, through this process, sort of bring those elements back together.

Mr. SCHWAAB. Yes, sir, Mr. Wittman, thank you. Well, that is a big question.

I would offer a couple of observations. First of all, as you know, to a large degree the Councils do include that kind of representation. We have worked hard within the agency over the years to enhance that balanced representation across the Councils, as well as within the Councils—and to provide to the Councils the kinds of support that they need to reach out farther into the community but, at the same time, engage on some fairly high-level and important decision-making processes.

I think another way to address your question that I would submit is that one of the things that we have to do is be careful to separate the questions, so that we have some clarity in the discussions.

You know, there are debates around the status of fish stocks. We need to continue to not only do a better job in improving the accuracy and timeliness of our science, but also having, developing a more shared appreciation, an agreement around that current reality. One subcomponent of that, of course, is the catch and effort data on the recreational side, which we are working on.

Then those questions, at some level, have to be distinguished from the questions that are partly the focus of today's hearing, which are the management options. And catch shares represent just one management option.

Largely before you get to catch shares, as we already discussed with Mr. Cassidy, you have these allocation decisions between sectors that have, in some cases, existed unchanged for decades. Catch share systems represent one mechanism to continue that dialogue, specifically as it relates to management approaches and allocations.

Clearly, I think one of the things that almost unanimously has resonated here so far this morning is an expectation, an understanding that the best management systems, including catch share systems, are those that take into account the local social and economic goals of the communities and the fisheries, in addition to the realities of the science and the status of the stocks. We have to do a better job of having those conversations very clearly and as locally as possible.

Mr. WITTMAN. You spoke a little bit about the impact on the recreational side. As I have said, I think the recreational fishermen

are feeling a little more challenged, let us call it, in this scheme of management.

What do you think we can do to restore the confidence and access for recreational fishermen? As you know, they are obviously one of the constituent groups out there that like to utilize the resource. I think there is a growing element of dissatisfaction with them.

So if you can talk a little bit about that, maybe how you could restore confidence and access for the recreational portion of our folks that utilize the resource.

Mr. SCHWAAB. Well, confidence in the data I spoke about a moment ago. I think the access question goes back again to what Mr. Cassidy was raising. They are really largely questions of scarcity, in comparison to, in many cases, growing demand.

As I said earlier, one of the things that I think we should continue to look to catch share systems to do is to provide for us an additional mechanism to provide for some market-based transfer of quota based on that increasing demand on the recreational side.

Now design and implementation to that is tricky. It is something we are spending some time on in this catch share policy. But I think it is something that we should be very attentive to.

Mr. WITTMAN. Thank you.

Ms. BORDALLO. I thank the gentleman. Now I would like to recognize Mr. DeFazio, the gentleman from Oregon.

Mr. DEFAZIO. I thank the Chair, I thank the Chair for holding this important hearing. Mike Thompson from California and I asked quite some time ago, and we are pleased to see this going forward before we make some irrevocable or difficult-to-change decisions

Dr. Rosenberg, in your testimony it says, "In order to meet social and economic goals, important considerations of program design include rules, fees, eligibility requirements based on transferability of quota shares at varied points during catch share programs. These issues can be dealt with, but it is very much harder to do so after the implementation of the system, than as part of the initial implementation."

Of course, as Ms. Cobb said, there is potential for catch share to address some of these varied issues.

Then finally, Mr. Schwaab, you said the local, social, economic goals, you could do a better job, more clearly communicate and get as local as possible.

So I guess in context of that, are we ready to move forward, particularly with the rule in the Pacific Northwest? Have we adequately addressed all those issues on the timeline that your agency has set? Or perhaps we should take a little longer to discuss this? Particularly, as Dr. Rosenberg says, if you mess it up at the outset, it is really hard because, then, of the ownership issues and everything else, to go back in and change it later.

I mean, April 10 EIS, and then implement for the next fishing season. Can we resolve, have they already resolved those issues? Do you think they resolved those issues in the proposal and the PFMC?

Mr. SCHWAAB. Thank you, Mr. DeFazio. My understanding is—well, in fact, I know at the last council meeting there was significant attention devoted to discussion about the schedule. The rel-

ative preparedness that the Council has, as well as the affected communities have for moving forward. And based on that discussion, there are a number of elements that process, moving forward, that have to be addressed.

Mr. DEFAZIO. Well, very careful and very bureaucratic, but would you support taking longer to do this at the outset? You know, i.e., is there pressure coming from the national office to PFMC, we want this for 2011? Or could you say well, gee, if you can't really address these issues before 2011, let us put it off and spend more time getting it right. Yes or no?

Mr. SCHWAAB. If you don't mind, I will preface by saying my understanding is that there are significant elements of the fishing community out there that are as anxious to move forward as anybody else.

If circumstances suggested that we could not move forward on the current timeline in an effective way, we would certainly be receptive to delay. We may find ultimately that we are not able to meet that January 1, 2011 date.

Mr. DEFAZIO. Do you agree with what Dr. Rosenberg said, which is once you put this in place, it is a hell of a lot harder to change it than if you take a little more time to settle some of these questions about community impacts; you know, about actually how you set the shares, what years you choose, how those shares are going to be set, who is going to be allowed, what you are going to be able to do with those shares in the future, how you are going to have new entrants.

Don't you think it would be better to get all that stuff done and arranged beforehand?

Mr. SCHWAAB. Yes. Theoretically, yes.

Mr. DEFAZIO. No, not theoretically. I think practically. Yes or no?

Mr. SCHWAAB. Yes.

Mr. DEFAZIO. OK, good. OK.

Mr. SCHWAAB. Well, my point——

Mr. DEFAZIO. OK, that is good. I was going to say I am disturbed at the continuing obsession and fascination with market-based solutions around here. We had a market-based solution on Wall Street not too long ago; worked out real well. We had a market-based solution on deregulation of energy; that worked out real well. We are paying $4,000 a megawatt-hour to Enron, a corrupt company that went bankrupt.

Now I am very concerned here. I have had this experience in aviation. You are going to apportion this valuable resource at the outset. You are going to establish a property right.

You know, we can't deal with National Airport rationally, or LaGuardia Airport, because all those airlines, who just happen to have been there, or their predecessor airlines who were there at the outset, they have a property right, by God, and they own the gates. And no one else can land and come in there, unless they want to pay them $10 million for a gate.

I don't understand how the successor clauses are going to work. I don't understand how we are going to deal with the leasing issue. The last thing I want is Goldman-Sachs buying up all the shares in a fishery in three years, after the restriction in the third year we can lease it to anybody, including financial speculators.

Then we have derivatives of fisheries shares being sold on Wall Street. I mean, the craziness that can come out of this is extraordinary.

You have to get it right at the beginning. I don't think you really have a clue and have thought through the implications.

And even those who are advocating this, because they are desperate to fish, you know, if you raise these issues with them, well, it might mean that all the fish are going to go to one community and one processor. In the not-too-distant future they would say oh, no, that can't happen. Well, yes it can, because of how you deal with the leasing of these shares in the future, and how you deal with the accumulation of the lease shares. Not the ownership, but the leasing of the ownership, and the actual fishing that takes place, and where those fish get directed, and who actually controls that, whether it is some processor or some Wall Street broker or somebody else.

I don't think you have thought this stuff through. I think we could have a disaster like they had in New Zealand at the outset.

So I would hope that you will take your time, get it right, and not just rush off to oh, well, we can just, market-based system, here we go, and the local councils will solve it. I just don't want to see that pressure from the national office. I don't have tremendous trust in PFMC not to rush ahead, either, but we will try and deal with that by region.

Would anybody else—Ms. Cobb or the gentleman, Mr. Backus from Ecotrust—care to comment? Do you share some of the concerns I just expressed, Ms. Cobb?

Ms. COBB. Yes. Thank you, Congressman DeFazio. At the last council meeting, which was last week in Sacramento, several of us approached the Council, the Pacific Fishery Management Council, and asked them to set up a committee on community fishing association so that we could prepare these communities for impacts from this trial IQ plan. The Council declined to do that, because they are literally so rushed to get this IQ program through.

Mr. DEFAZIO. Rushed by whom?

Ms. COBB. I don't know what—I mean, there are certain elements in the fishing industry that are pushing this to move it forward. But the Council repeatedly says we have spent six, seven years on this; we have to get it done, we have to start this program in 2011. I don't see any reason——

Mr. DEFAZIO. Really? Have they answered all those issues and concerns and questions I just raised?

Ms. COBB. I don't think so, no. I think that that program could be slowed down. I really think that there needs to be a meeting held with the people who are very concerned about that program and with NMFS to be able to express that, so we can find out how——

Mr. DEFAZIO. Well, then, maybe what we need is some direction from the national office to the PFMC, looking at saying well, we don't think you have answered this range of questions. And if we look at testimony from Dr. Rosenberg and others, it is going to be a lot harder to change this after you implement it, because of the property rights. Thank you. OK, I appreciate that.

So maybe we need some intervention. But not to rush it, but to get it right and take your time. It sounds like—yes, sir.

Mr. BACKUS. If I may, Mr. DeFazio, thank you. Yes, I think in my oral statement earlier this morning I pointed out that ownership structures are very much key to the future. And the way that the Pacific Trawl IQ program is structured now in terms of its eligibility to own rules, it essentially allows perpetual leasing to happen.

I am all for——

Mr. DEFAZIO. Sort of like California water rights, right?

Mr. BACKUS. I am all for family businesses in fishing, working their way through the generations. But if we are going to have—one of the presumed benefits of having a quota market if it is properly structured is, is liquid trade. When people retire, it is a public-trust asset. It should go back into the system.

If you have perpetual leasing the way that ownership structures are set up now, that will never happen. As Ms. Cobb said, we have been discussing with the Council the implementation of these community provisions that are already in Magnuson, regional fishery associations, fishing community structures, which are clearly defined in Magnuson. We have been pressing for community fishing association criteria and rules of engagement for communities to be defined, so the communities that are ready to develop CFAs, community fishing associations, can go forward and feel that what they are doing is valid.

It is not an integral part of the trawl IQ program. Given National Standard 8 about social and economic consequences, a lot of us don't understand why these provisions are not a key part of the design, the market design of this program, from the get-go.

The adaptive management program, which sets aside 10 percent of the trawl groundfish allocation, is going to be a trailing action that is going to be played out for two years, after the initial start date of the program.

I don't understand why that would be the case. There are a lot of unanswered questions about unintended consequences, but we firmly believe, at a community level, like in Alaska, allocate 10 percent to the community development quota corporations. It has worked out very well. Ten percent for this adaptive management program.

But let us make some solid decisions about where it should be placed. And that I think should be at the community level, and these community structures that are already described in the Magnuson-Stevens fisheries law.

Thank you.

Mr. DEFAZIO. OK, thank you. Thank you, Madame Chair, you have been very generous with the time. Thank you.

Ms. BORDALLO. I thank the gentleman. Now I would like to recognize Ms. Shea-Porter from New Hampshire.

Ms. SHEA-PORTER. Thank you, and thank you for being here.

I, too, was concerned when I heard the words "market transaction." And I thought, what are we really talking about here?

I have been very concerned about the impact this is going to have on the small fishermen. I am concerned about the extra cost

of monitoring on board, monitoring at the dock, increased management costs.

But when we start talking market transaction, I worry that what will happen is that we will be crowding out the small fishermen, and that we will indeed wind up with some major corporations that will be taking over. I think that would be tragic for a number of reasons.

I just heard from a local fisherman in New England. And he said, "I am becoming increasingly concerned that the amount of money being spent to implement a program that no one in New England wants is approaching the gross value of the fishery."

Mr. Schwaab, I listened to you talk about how things should be settled as much as possible on a local level, and at least include them. I do understand the tension that we have here, because we have to take care of our fish, and we have to make sure that the system doesn't collapse.

But what about his comment, that the costs now are going to exceed or come in close to the gross value of the fishery?

Mr. SCHWAAB. Congresswoman, I don't have either of those sets of figures in front of me. I would only suggest that costs associated with the management decision-making process, as well as catch monitoring and all the associated science that underpins that exists to a large degree, regardless of the particular type of management system that is employed.

And so there are costs and benefits in each case. I think as you look down the road, one of the expectations that we have is that by conveying more of the day-to-day management decision-making of the fishery to the fishermen certainly within limits established by the programs that each council constructs, that we will have the opportunity to focus more and more of our attention on the broader issues relating to underlying stock science, as well as focused attention on monitoring appropriately the total annual catches.

But I would be happy to get you a little more detail with respect to cost of implementation of the sector program versus the value of the fishery.

Ms. SHEA-PORTER. OK. Because I have seen some numbers that are surprising. But in the—I am glad you brought up the science, because I was obviously leading you to the next one.

In the 2011 budget, NOAA proposed a $10.5 million cut to cooperative research, a $2.3 million cut to observers, and inadequate funding for stock assessment.

Is this a question of we are creating a cart-before-the-horse scenario? We have a lot of fishermen at this point who are suspicious of the science. I appreciate your comments about trying to work things out at a local level and getting the local buy-in, but I don't think we are anywhere near close, based on the comments that I am hearing, and the fact that while they are still not confident about the science, you are actually cutting back the science.

Mr. SCHWAAB. From a national budgetary perspective, we are maintaining the increase in investment in the stock assessment that, that we saw last year. About a $10 million increase, as I recall.

There is a specific reduction in cooperative research, a $4 million reduction in cooperative research from the national program. There

is an additional $6 million shift from the cooperative research general-line budget to cooperative research under this new catch shares line.

So that money is predominantly Northeast money. So that cooperative research will continue to occur. It will occur under the auspices of the catch share program, as opposed to under the auspices of the general cooperative research budget.

The last thing I would mention is something that I said earlier, which is a significant amount of the new money dedicated to catch share program implementation will go directly to pay for observers and monitoring. So there will be a net increase, particularly in those places where catch share systems are being implemented this year, including the sector system, in monitoring and observer data.

Ms. SHEA-PORTER. So what would you say to the man or the woman who is fishing in New Hampshire, who is looking at all this, looking at the plan, and says I don't think this is a good deal for me? What would you say?

Mr. SCHWAAB. Well, I think there are two things at play here. One is sort of the gross allocations. I think one of the big challenges that we have run up against are reductions in allocations that are based on assessment of stocks.

So in some cases, it is less the catch share or sector program, and it is more the reality of the reduction in annual catch that would have existed whether we were in a days-at-sea program, or in a sector program. You know, that is a certain reality.

Are there potentially winners and losers in this system? Yes. And you know, one of the things that we continue to try to do in New England is invest in ways, particularly to minimize the impacts to some of the small fishery-dependent communities that exist out there. And you are aware of some of those investments. We continue to work very closely to protect those interests.

Ms. SHEA-PORTER. But when you start using the words market transaction, how are they supposed to understand that? It doesn't sound very promising for the individual fishermen.

Mr. SCHWAAB. Yes. I mean, market transactions within the confines of the rules established for the program.

My use of the term "market transaction" was specific to a price question. It was not intended to imply that that would be the only control on movement of shares.

Clearly, there are significant controls on movement of shares, allocation and movement of shares in the system designed to ensure a variety of localized social and economic goals are met.

Ms. SHEA-PORTER. But do you think they are right to worry that they could be driven out?

Mr. SCHWAAB. I am not sure that they should be worried about being driven out of a catch share system or the sector system in New England, any more so than they should have been worried about being driven out under the prior days-at-sea program, which had with it its own economic pressures and costs.

Ms. SHEA-PORTER. Thank you, I have run out of time.

Mr. SCHWAAB. Thank you.

Ms. SHEA-PORTER. Thank you.

Ms. BORDALLO. I thank the gentlelady, and now I would like to recognize the gentleman from the State of Washington, Mr. Inslee.

Mr. INSLEE. Thank you. I really appreciate NOAA's interest in catch shares and trying to advance this cause, for many reasons. One of which is we have seen a continual decline in fisheries where we have not had catch shares, and this is one tool in the toolbox to help make sure we have a fishery for the grandchildren of our current fishers.

I want to put into the record, if I may, a statement by the President of United Catcher Boats in support of this effort, dated March 16, 2010. If I may, Madame Chair, if I may put this into the record.

Ms. BORDALLO. No objection. So ordered.

[The statement submitted for the record by United Catcher Boats follows:]

Statement submitted for the record by Robert E. Dooley, President, United Catcher Boats

Dear Honorable Madeleine Bordallo and Members of the House Natural Resources Committee, Subcommittee on Insular Affairs, Oceans and Wildlife,

Thank you for the opportunity to present the following comments to your oversight hearing on commercial fishery Catch Shares management. My name is Bob Dooley and I am the President of United Catcher Boats (UCB), a vessel owner's trade association that represents the interests of the owners of 70 trawl vessels that participate in the Bering Sea, Aleutian Islands, Gulf of Alaska and West Coast federal trawl fisheries. My brother and I own and operate two trawl vessels and together have participated in the West Coast and Alaska groundfish and crab fisheries for over 40 years. We live in Half Moon Bay, California and the UCB office is located in Seattle Washington. The members of UCB reside in Alaska, Washington, Oregon and California.

Our primary concern is the timely approval and enactment of the Pacific Fishery Management Council's recommendation on the West Coast Trawl Rationalization program (FMP Amendments 20 & 21) and the appropriation of adequate federal funding to ensure that this new program becomes a success in 2011. To this end, we ask that the Subcommittee convey its support for the West Coast Trawl Rationalization program to NOAA/NMFS leadership and support funding requests for this program through the congressional budget appropriations process this year to help the West Coast Region of NMFS and the Pacific Fishery Management Council get this new program up and running as soon as possible.

The members of UCB are very strong supporters of Catch Shares programs, or more commonly known as 'rationalized' fishery programs. We believe that our comments can be quite beneficial to the Committee members because we participate in both a major rationalized fishery, the Bering Sea Pollock fishery, and a fishery that is still an 'open access' fishery, the Pacific Whiting fishery. Through our experience of both management styles we are able to provide you with an understanding of the benefits associated with rational fisheries management programs.

The stated benefits of a catch shares program include reducing overcapitalization, minimizing bycatch, ending the 'race for fish', maximizing vessel safety, maximizing the value of the harvest and allowing for sustainable fishery management practices. Under the provisions of The American Fisheries Act (MA) that passed Congress in 1998, the Bering Sea Pollock catcher vessel fleet has been operating under a cooperative style (co-op) of management since 2000. With over a decade of experience in fishing in a rationalized fishery, we can unequivocally state that the stated benefits of rationalization are very real and far outweigh any costs associated from shifting from an open access style of management. All of these benefits, without a doubt, have been realized and experienced.

One recent example is our ability to use our co-op style management to address the problem of Chinook salmon bycatch taken incidentally in the Pollock fishery. We are able to voluntarily enact co-op provisions that provide strong incentives to minimize the encounter of salmon while fishing for Pollock in the Bering Sea. Through the Co-op program the Pollock fleet is able to enact a real-time reporting system to keep vessels away from discrete areas of high rates of salmon bycatch. We call this program the Rolling Hotspot Avoidance Program. In addition to this avoidance program, we are able to use the co-op program to embark on experimental fishing to develop a salmon excluder in the trawl net that is now used by almost all of the Bering Sea Pollock fleet and some of the Pacific Whiting fleet off the West Coast

that allows salmon to escape our trawl nets while catching Pollock These programs were initiated by the Pollock industry to solve real-time problems and not generated through government regulations or actions.

Compare this to the current open access style management of the West Coast Pacific Whiting fishery. Similar to salmon bycatch in the Pollock fishery, the incidentally caught rockfish species taken in the Whiting fishery is the largest problem for the fishermen. In an open access fishery, the government places hard caps of incidentally caught bycatch species on the fishery that can close the fishery when these caps are reached. This encourages a 'race for bycatch' by the fleet and has resulted in closing the fishery down prematurely with harvest left in the water. If the fleet had a co-op program in place, the owners can pool the allocations of bycatch species and enact rules within the co-op that result in avoidance of bycaught species. For example, the fleet can choose to fish during times of the year, and in areas known for low encounter rates of bycatch if they don't have to race for the fish when the start of the fishery occurs. Without a co-op structure in place, these kinds of avoidance incentive programs cannot exist.

The Pollock-Whiting comparison is very useful when analyzing the problem of overcapitalization of the fleet. The present Whiting fishery is exactly where the Pollock fishery was at the end of 1999. In that year, the Pollock fishery fished for less than three months and the value of the fishery was about 1/3 of the present value. Utilization rates of the harvest was about half of what it is today and a number of Pollock fishing companies were either just trading dollars or the cost of fishing exceeded the gross revenues generated. This past year, the Pollock fishery lasted for over six months, the fleet was able to avoid bad weather, target on high value fish, spread the fishery out over the entire year, match the size of the fleet to the level of harvest and the products produced were matched to market demand. This past year's Whiting fishery lasted less than one month, occurred during the time of year when encounter rates of rockfish bycatch species were high and the catch rates and product recovery rates of the fish were poor or sub-optimal.

There is a feeling of stability and security, including the ability to act and plan for the future in the Pollock fishery which was created by the co-op rationalization element of the AFA. This sense of stability is not present in the West Coast Pacific Whiting fishery. Participants have continued to 'capital stack' or put more investment into catch capacity of the vessels and processing capacity in the processing plants and the result has been shorter and shorter seasons. This past year's Mothership catcher vessel fishery lasted about three weeks and the Shore-side catcher vessel fishery lasted about one month.

In conclusion, I hope this comparison of two fisheries helps you understand that a properly structured catch share program can solve many of the problems fishermen face in an open access, race-for-fish management style fishery. A co-op style management program allows for fishermen to reduce their fishing capacity thereby lengthening seasons and the ability to choose when and where to fish and gives fishermen tools to voluntarily minimize bycatch of unwanted species without government regulations. It allows us to better plan our businesses and we are able to minimize costs while striving to maximize revenues from a set amount of fish that get allocated to the individual members of the co-op.

Mr. INSLEE. Thank you. But I think about small fishers, fishermen and women when I do this, I think of one of my heroes, a fisherman named Rudy Neuser, who is my dad's best friend from sixth grade, who fished the Shirley Ann for many years. It was a beautiful wood boat, and he had many adventures. He was an idol growing up, and still is. I want to make sure that this program is designed in a way that everyone feels they have a fair shake.

So I want to ask Dr. Fina to start with. This program has been approved by the representatives of the Council from all the states, as I understand it. What has been done to design the catch share program so that the small fisherman who has got that little, old wood boat out there is protected, and at least has a fair shot at this?

Mr. FINA. Madame Chair, Mr. Congressman, in Alaska we have done a few things in some of our programs, most particularly the halibut and sablefish IFQ program, where there are vessel classes

and there are limitations on the movement of share among vessel sizes. So that you can create classes that are restricted to, for use on small vessels. You can also create owner-on-board requirements that require the shareholder to be on the vessel. You can limit leasing or limit the use of hired skippers on vessels. Those types of, those types of elements are included in the IFQ program in particular.

You can limit who can acquire shares, too. You can limit the acquisition to people who meet certain fishing time requirements prior to their purchase.

Mr. INSLEE. Mr. DeFazio has risen issues about a concern that you don't want to rush into an ill-considered decision. I will just tell you my perspective. It is my understanding this has been a multi-year process. Is it five or six years now? It sounds like there is consensus from council members from the Northwest, in any regard.

Is there any issue that has not been considered already, that is sort of a new issue that no one has thought of, that should delay this? Can anyone posit any that hasn't been considered during this multi-year process?

Ms. Cobb, did you have a comment?

Ms. COBB. Yes, thank you, Congressman. As I mentioned to Congressman DeFazio, we asked the Pacific Fishery Management Council to look at community fishing associations. Frankly, those should have been running parallel with the design of this IQ program.

Mr. INSLEE. When did you propose that?

Ms. COBB. We wrote letters to the Council, and were at the Council meeting last week in Sacramento. The Council had every opportunity to set up a CFA committee.

And again, these committees, community fishing associations, could be very place-based, would need to respond to these impacts from this trawl IQ program. And you know, we couldn't even get them to set a committee date.

Frankly, as I said to Congressman DeFazio, this council, the Fishery Management Council, is extremely rushed in trying to get this through by 2011. I spoke with a council member in the hall who said we may have to set all other issues aside for this council, and just work on the Trawl IQ plan.

I kind of pushed back, because we have a halibut proposal before the Council. And he said we don't want this thing to go out the door a mess. We have to work on this, right, by 2011.

Mr. INSLEE. So that makes, just briefly, because I have limited time. So this has been going on for several years. Was this the first time you had proposed the community council approach, in this letter? Is this the first time this issue came up?

Ms. COBB. Do you want to respond to that? You have been working on it, too.

Mr. BACKUS. Actually, the issue had come up several years back, and the Council began to take action on it, I believe in March of 2009, for the first time, when the Congresswoman from California, Mrs. Capps, mentioned a project in her district in Morro Bay which is large enough in terms of one of the organizations involved, owns a significant amount of trawl permits now in that project. I think

that got the attention of the Council to begin to address these social and economic issues.

I would argue that these community provisions are already clearly stated in the Magnuson-Stevens Act, in Section 303[a], the Limited Access Privilege Program section. It clearly defines that councils should define criteria for the development of, in two sections: fishing communities in one section, and regional fishery associations and other related entities in the next section of the Act.

And a lot of us firmly believe that if you are going to have a fully integrated approach in catch share design related to communities, fishing businesses, and individual fishermen as an integral part of the fisheries to start with, before you start catch shares, that it is council responsibility to take an integrated approach to the design of those programs from the get-go. Not having us on the outside saying hey, what about these provisions.

Mr. INSLEE. Well, I hope that they are a success. This has been several years. I think there are great opportunities for improvement with a catch share program. I hope there is success getting this going, taking in everyone's consideration, particularly in light of the vote of the Council to move forward.

Thank you. My time has expired.

Ms. BORDALLO. I thank the gentleman. I have a couple of questions, and I think Mr. Wittman also has a few questions.

This is for Mr. Backus. When is quota leasing necessary and constructive, and when does it become exploitive?

Mr. BACKUS. Thank you for the question, Madame Chair. In a single season, in a particular season of fishing that is going on, there is often quota that is assigned around bycatch species. And that can be practically and valuably traded between vessels who might have gone over on some other bycatch quota, and some other person who has not had that experience, they can trade or lease intra-annual leasing of quota, to make the system work.

Cooperative approaches to that issue are commonly exercised in the North Pacific, and beginning to emerge here on the West Coast.

So intra-annual leasing I think serves a very useful function for fleets to operate under a catch share program. I think when it gets abusive is when, as you see in British Columbia, a majority portion of the quota is owned by non-fishing entities or individuals, and it is leased so that 70 percent to 80 percent of the catch value goes off the top to pay the lease fees that are demanded by the lessor. The lessees feel like they are really becoming sharecroppers.

Leasing, for example, in Alaska is limited to the first generation of initial issues of halibut quota. It is going to sunset. That is a very good thing. That is a compromise I believe in the design, but it is recognizing that leasing going forward can be highly negative.

In the Pacific trawl program, as I mentioned, the way that ownership structures are set up, even Ecotrust or the North Pacific Fisheries Trust could buy trawl quota and lease it. We would probably do very positive things with it, but again, I think permanent perpetual leasing entities and trusts should not be allowed. That is where it becomes abusive. Thank you.

Ms. BORDALLO. I have another question for you. Has Ecotrust been able to distinguish between the improvements of fish stocks from setting a total allowable catch, versus establishing a catch

share program? And what does this indicate, given the fact that the President's Fiscal Year 2011 budget request shifts funding for basic science over to catch shares?

Mr. BACKUS. Thank you. As you have heard in this discussion, it is very essential to address harvest levels through total allowable catch or annual catch limits. It is essential to allocate the proper proportion of budgets to the science and the surveys and the analysis to establish those, those levels, the TAC or the ACL.

I think the challenge, of course, for a manager is how do you know when a fleet is getting up toward that annual limit, and how do you prevent going over it.

Catch shares, for their good and bad, on the good side, as I said in my earlier testimony, they do get down to the accountability of individual vessels. That is a key positive aspect of catch shares, properly designed, as I have said.

So I think it is important to recognize that TACs and ACLs in and of themselves are the first benchmark that you want to establish for control of the fishing. There are some distinct advantages in being able to hold individual vessels accountable for how they operate, and that is a positive aspect.

Ms. BORDALLO. Thank you very much. Now I would like to recognize the acting Ranking Member, Mr. Wittman from Virginia.

Mr. WITTMAN. Thank you, Madame Chairwoman. Dr. Fina, I wanted to sort of get your perspective on the economics of this whole realm of catch share. I am going to relate a story that I experienced in Virginia. Back, I believe it was 1990, the Surf Clam and Ocean Quahog Fishery underwent essentially an individual fishery program. I watched that through the years develop. I watched surf clam plants in Virginia, in Maryland, and in Delaware close down.

I watched permits consolidate. I watched many boats go down to a few boats, all controlled by one company, about 80 percent of the catch controlled by one company. Then eventually that one large facility that was there in Virginia being bought out by a larger entity.

So the whole idea of making sure that we have healthy communities, working waterfronts, a diverse fishing economy in these areas, under that scenario, escapes me.

So I want to get your thoughts. How do you think we best, in the scheme of fisheries management, how do you think we best assure that we have healthy diverse fisheries, sustainable fisheries, but also sustainable coastal economies that are, again, diverse from top to bottom, not just for large producers, but with small producers.

So how do we do that in that context, using the backdrop of the individual fishery quota scenario we had with surf clams and ocean quahogs.

Mr. FINA. Madame Chair, Mr. Congressman, in the North Pacific we have done a few things. Like I mentioned before, we have put in vessel caps, and you can use those to try and maintain the size of your fleet, or make sure that nobody gets bigger than a certain size. Also shareholding caps. We have, where we have co-ops we have caps on how big a co-op can get. That is a group of fishermen that join together and are managed as a group, and their catch is managed as a group.

Also, in at least one of our programs and a few of our programs where we have processors recognized as processors in the program, we have processing caps, as well, that prevent any processor from getting above a certain size.

I know that there is a lot of controversy around the processing aspects of programs, but they are directed at two things. Part of is that shore-based industry that you referred to, as well as some of the community interests that you might be able to protect with those.

So, and you can keep the distributions, you can affect the distributions by some of those caps and some of those provisions.

Mr. WITTMAN. Sir, do you believe then, as the fishery or fisheries grow, under the scenario you have painted, that we would actually be able to grow jobs? Have more people been involved, both on the fishing side and on the processing side, by making sure you have diversity both on the catch side and on the processing side?

Mr. FINA. Madame Chair, Mr. Congressman, I think there is potential for that. Other things that you can use are port landing requirements that are now provided for in regional landing requirements. Those may be appropriate for certain circumstances. We have them in one fishery, and we are considering them in another. So you can use a different tool, which doesn't necessarily get down to the processor level in that regard.

But I think with respect to your question about the economy, I think you can use these types of measures to redirect landings in ways that can provide for that basis.

Mr. WITTMAN. Thank you, Dr. Fina. It is great to have a fellow Hokie here on the Hill. Thank you.

Ms. BORDALLO. I thank the gentleman. I want to thank all of the witnesses for their participation in the hearing today. Members of the Subcommittee may have some additional questions for you, and we will ask you to respond to these in writing.

In addition, the hearing record will be held open for 10 days for anyone who would like to submit additional information for the record.

Again, as Chair of the Subcommittee, I would like to thank the members of the Subcommittee and our witnesses. If there is no further business before the Subcommittee, the Subcommittee now stands adjourned.

[Whereupon, at 2:00 p.m., the Subcommittee was adjourned.]

[Additional material submitted for the record follows:]

[A letter submitted for the record by Lee Anderson, University of Delaware; Trevor A. Branch, University of Washington; Mark Carr, University of California, Santa Cruz; Christopher Costello, University of California, Santa Barbara; David B. Eggleston, North Carolina State University; Steven D. Gaines, University of California, Santa Barbara; John C. Ogden, University of South Florida; Michael K. Orbach, Nicholas School of the Environment, Duke University; Stephen Palumbi, Stanford University; Charles H. Peterson, University of North Carolina at Chapel Hill; Pete Raimondi, University of California, Santa Cruz; James N. Sanchirico, University of California, Davis; Wolfram Schlenker,

Columbia University; and Bob Steneck, University of Maine, follows:]

March 30, 2010

The Honorable Nick J. Rahall, II
Chairman
Committee on Natural Resources
1324 Longworth H.O.B.
Washington, D.C. 20515

The Honorable Madeleine Z. Bordallo
Chairwoman
Subcommittee on Insular Affairs, Oceans & Wildlife
Committee on Natural Resources
1324 Longworth H.O.B.
Washington, D.C. 20515

The Honorable Doc Hastings
Ranking Member
Committee on Natural Resources
1329 Longworth H.O.B.
Washington, DC 20515

The Honorable Henry Brown, Jr.
Ranking Member
Subcommittee on Insular Affairs, Oceans & Wildlife
Committee on Natural Resources
1329 Longworth H.O.B.
Washington, DC 20515

Dear Chairman Rahall, Chairwoman Bordallo, and Ranking Members Hastings and Brown:

We, the undersigned scientists, are writing to ask you to support key investments in natural and social science needed to build a strong and sustainable fishery management system in the United States by supporting the President's proposed FY11 funding for the National Oceanic and Atmospheric Administration's (NOAA) National Catch Share Program. This key program will help improve science, restore fish populations, and improve fishermen's livelihoods.

Good science is essential for good decision-making in fisheries management. Good science involves strong fishery-dependent information (including effective accounting of catches, and related social and economic effects) and robust fishery-independent information (including stock assessments). Many essential scientific elements remain woefully underfunded in the United States, to the detriment of fishermen, fishing communities, and ocean ecosystems.

Well-designed catch share systems provide an excellent tool to build stronger fishery science and management at the same time. Core elements of well-designed catch share systems include robust catch accounting, monitoring and compliance systems, as well as improved tracking systems for social and economic outcomes. Catch shares can actually improve science, because they result in rapidly improving fishery-dependent information—reducing uncertainty, allowing greater yields for every stock condition, and getting fishermen back on the water faster—and because stocks rebuild faster and more profitably[1] when compliance with appropriate catch targets is assured.

The President's budget request for catch shares includes significant funding (over $19 million—or 35% of the total for the National Catch Share Program) for getting better data through dock-side and at-sea monitoring, as well as helping to set up the infrastructure for fisheries around the country to move forward with improved electronic reporting systems.

Strong and compelling scientific evidence concludes that catch shares are effective. Six recent studies have documented that catch shares help prevent the collapse of target stocks and rebuild fisheries:

[1] Newell, R., J. N. Sanchirico, and S. Kerr. 2005. Fishing Quota Markets. Journal of Environmental Economics and Management 49(3): 437-62.

- "Can catch shares prevent fisheries collapse?" looked at 11,000 fisheries worldwide and concluded that catch shares prevent—and even reverse—fisheries collapse.[2]
- "Sustainable Fisheries" demonstrated that fishery production, on average, increases significantly after catch share management is implemented—in some cases, dramatically so.[3]
- "Rebuilding Global Fisheries" presented a strong consensus from scientists around the world—built around a brand-new, sophisticated fisheries database—that catch shares is one of, and perhaps the, most effective fishery management tool. Catch shares were credited by experts as "an essential tool" in four of the six ecosystems where reductions in total allowable catch were essential. Conventional management was deemed "essential" in just two other ecosystems, and one of those is now also finalizing catch shares.[4]
- "Ecological indicators display reduced variation in North American catch share fisheries" examined the ecological performance of 15 North American catch share fisheries and reaffirmed two critical benefits. First, catch shares drastically reduced catch-to-quota ratios—i.e. fisheries complied with management targets and avoided quota overages. Second, bycatch rates significantly declined under catch shares—by an average of 30%.[5]
- "How do individual transferable quotas affect marine ecosystems?" demonstrated that catch shares lowered fishing mortality, and raised fish abundances, but also led to requests from fishermen for more conservative catch limits, stronger monitoring programs, better research, and improving data collection and stock assessments. Fighting about the science was replaced by cooperating for improved science.[6]
- "Thirty years later: the global growth of ITQs [Individual Transferable Quotas] and their influence on stock status in marine fisheries" chronicled improvements in most stocks managed under ITQs, and documented the need for concomitant improvements in science, including better total allowable catch specification, improved monitoring, and accounting for related aspects of ecosystem-based fisheries management.[7]

An investment in catch share systems in fisheries for which they are appropriate is an investment in better science and better fisheries management. We respectfully request that you support the President's $54 million budget request for the National Catch Share Program in FY11.

Sincerely,

Lee Anderson
University of Delaware

Trevor A. Branch
University of Washington

Mark Carr
University of California, Santa Cruz

Christopher Costello
University of California, Santa Barbara

David B. Eggleston
North Carolina State University

Steven D. Gaines
University of California, Santa Barbara

John C. Ogden
University of South Florida

Michael K. Orbach
Nicholas School of the Environment, Duke University

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[2] Costello, C., S. Gaines and J Lynham. 2008. Can catch shares prevent fisheries collapse? Science 321: 1678-81.

[3] Heal, G. and W. Schlenker. 2008. Sustainable Fisheries. Nature 455: 1044-5.

[4] Worm, B., R. Hilborn, J. Baum, T. Branch, J. Collie, C. Costello, et al. 2009. Rebuilding Global Fisheries. Science 325: 578-85.

[5] Essington, T.E. 2010. Ecological indicators display reduced variation in North American catch share fisheries. Proceedings of the National Academy of Sciences 107(2): 754-9.

[6] Branch, T.A. 2008. How do individual quotas affect marine ecosystems? Fish and Fisheries 10(1): 39-57.

[7] Chu, C. 2009. Thirty years later: the global growth of ITQs and their influence on stock status in marine fisheries. Fish and Fisheries 10(2): 1-14.

Stephen Palumbi
Stanford University

Charles H. Peterson
University of North Carolina at Chapel Hill

Pete Raimondi
University of California, Santa Cruz

James N. Sanchirico
University of California, Davis

Wolfram Schlenker
Columbia University

Bob Steneck
University of Maine

[A statement submitted for the record by Stephen A. Arnold, Kingston Trawlers, Inc., West Kingston, Rhode Island, follows:]

Statement submitted for the record by Stephen A. Arnold, Kingston Trawlers, Inc., West Kingston, Rhode Island

Thank you for the opportunity to provide my personal perspective on catch share management.

I am an owner/operator of an inshore/offshore 55 foot commercial fishing trawler from Pt. Judith, Rhode Island. I have been fishing for more than 25 years and participate in several different fisheries: large and small mesh multispecies, squid, mackerel and butterfish. For this last year, I participated in the Rhode Island Summer Flounder Sector Allocation Pilot Program, a type of catch share program.

I support catch shares and support the fluke sector being renewed, modified, and expanded for fishing year 2010. Over this last year, the fluke sector has accomplished a drastic reduction in fishing mortality because of the catch share program. Going forward with the new requirements of annual catch limits (ACLs) and accountability measures (AMs), it will be increasingly important to take control over managing discarded fish. Working under input controls makes it difficult and even impossible to achieve this. By having control over how individuals harvest the fish to suit their needs, we can manage the fluke mortality while adding value to the days fished throughout the year. The fluke sector enabled fishermen to extend the summer period to get fish into August, September, and October, when in past years the fishery was closed and became a pure discard fishery. By moving forward and continuing with the fluke sector as a pure catch share program, we will be better able to understand how this program can be better integrated with the new groundfish sectors coming into effect May 1, 2010. I believe catch shares can work with a well funded with fish catch share management system.

I consider this fluke sector program a management proof of concept study. We should not stop with only one year's worth of data, but continue and expand it so we can see how it can develop with a larger diversified fleet of boats that are interested in participating. Until we have some new ideas put on the table, this is the only alternative to access more of the resource.

[A letter and attachment submitted for the record by Ben Bowman, Policy Analyst, Food & Water Watch, Washington, D.C., follows:]

March 29, 2010

U.S. House of Representatives
Subcommittee on Fisheries, Wildlife and Oceans
187 Ford House Office Building

RE: House Subcommittee on Insular Affairs, Oceans and Wildlife—Oversight Hearing on "Catch Shares as a Management Option: Criteria for Ensuring Success"

Honorable Committee members,

Food & Water Watch (FWW) is a nonprofit consumer action organization headquartered in Washington, D.C. that runs cutting-edge campaigns to help ensure clean water and safe food. We work with various community outreach groups

around the world to create an economically and environmentally viable future. We advocate for safe, wholesome food produced in a humane and sustainable manner; and public rather than private control of water resources, including oceans, rivers and groundwater.

On February 25, 2009, FWW and the Pacific Coast Federation of Fisherman's Associations wrote jointly to members of congress to request oversight hearings on the fair allocation of fishing access privileges. FWW would like to thank the House Subcommittee on Insular Affairs, Oceans and Wildlife for holding the hearing. We hope for more oversight hearings on this issue and hope testimony from small-scale fishermen and consumer representatives will be included.

Limited Access Privilege Programs (LAPPs), now commonly known by the euphemism "catch share" programs, allocate access to public trust fish stocks by apportioning the Annual Catch Limit to identified entities. FWW is not opposed to LAPPs and has undertaken international research to identify a catch share approach (titled Cap-Rent-Recycle) that we believe will best serve the U.S. people. Unfortunately, to date LAPPs have been used to privatize access to public fish stocks and develop a market-based cap-and-trade system that benefits speculators while putting hard working primary producers out of work.

As the Oversight Hearing was focused principally on the development of LAPPs for the Pacific Coast Groundfish Fishery, we would like to place our comments regarding this proposal on the record. FWW has provided comment to the Pacific Fishery Management Council on numerous occasions. Through both public testimony and written comments we have made it clear that we, and those we represent, do not support the proposed changes (Amendment 20 and 21 to the Pacific Coast Groundfish Fishery Management Plan). FWW asserts that the PFMC is deeply confused about its fishery management role, and needs to be re-oriented, and provided with contemporary policy development tools. FWW appreciates the opportunity to provide comments on this matter.

Sincerely,

Ben Bowman
Food & Water Watch, Policy Analyst
bbowman@fwwatch.org

Food & Water Watch
1616 P Street, N.W., Suite 300
Washington, DC 20036
www.foodandwaterwatch.org

March 15, 2010

Barry A. Thom
Acting Regional Administrator
Northwest Region, National Marine Fisheries Service
National Oceanic and Atmospheric Administration
7600 Sand Point Way NE
Seattle, WA 98115

Food & Water Watch re: Draft Environmental Impact Statement for Allocation of Harvest Opportunity Between Sectors of the Pacific Coast Groundfish Fishery: Pacific Coast Groundfish Fishery Management Plan Amendment (A21)

Dear Mr. Thom,

Food & Water Watch (FWW) is a nonprofit consumer action organization headquartered in Washington, D.C. that runs cutting-edge campaigns to help ensure clean water and safe food. We work with various community outreach groups around the world to create an economically and environmentally viable future. We advocate for safe, wholesome food produced in a humane and sustainable manner; and public rather than private control of wild capture fisheries and water resources, including oceans, rivers and groundwater. Importantly, FWW supports some Limited Access Privilege Program (LAPPs) designs that affirm the public trust on fish.

FWW has taken a strong interest in the Pacific Coast Groundfish Fishery Management Plan (PCGFMP) Amendment 21 (A21), and related amendments. We view the allocation of access privileges to harvest the Pacific coast groundfish resource as strategically important. Without access to this keystone resource it will be difficult for many Pacific coast communities to continue to participate in commercial

fishing in a meaningful way. They may lose their jobs, as well as the opportunity to respond to the growing consumer demand for local, sustainably caught seafood. Local food requires local primary producers.

FWW has provided comment to the Pacific Fishery Management Council (PFMC) on numerous occasions. Through both public testimony and written comments we have made it clear that we, and those we represent, do not support A21 as the enabler of fishery privatization through Rationalization of the Pacific Coast Limited Entry Trawl Fishery: Pacific Coast Groundfish Fishery Management Plan Amendment 20 (A20).

FWW asserts that A21 is one segment of a major federal action to establish private control over access to, and use of, the public's Pacific coast groundfish resource. These "major Federal actions significantly affecting the quality of the human environment"—A20 and A21—should be a single amendment presented for National Environmental Protection Act (NEPA) review (42 USC § 4332(C). Presently, it is not possible to review the environmental impacts of A21 as the Draft Environmental Impact Statement does not include sufficient environmental analysis. Rather, it serves to justify a predetermined course of action. FWW appeals to Secretary of Commerce to disapprove A21 on this basis.

In the following comments we will provide additional specific comments and a number of attachments. Please feel free to contact me with any questions or for further information.

Sincerely,

Ben Bowman
Policy Analyst, Food & Water Watch

Specific Comments on the A21 DEIS

NEPA and Segmentation

The Pacific Coast Groundfish Fishery Management Plan (PCGFMP) is the single document outlining the management of the entire Pacific coast groundfish fishery. Recent proposed amendments to the PCGFMP have not been presented in a coherent and logical way. Instead, reforms have been unnecessarily segmented into a number of different management plan amendments. These amendments have then been pushed through in a confusing manner, resulting in decreased public comprehension and participation, and an inadequate NEPA review.

The plan, if presented logically as one major federal action, would likely be very unappealing to a public weary of both industrial-scale trawl fishing and corporate welfare. In brief:

> Allocate to the trawl sector 90%+ of the total Pacific coast groundfish quota, essentially in perpetuity (A21); restrict entry to this fishery to suppress competition (A15/A20 Alternative 4b); privatize quota share; then introduce measures to promote concentration of market share in the restricted entry fishery through vertical and horizontal integration (A20 Alternative 4b).

Segmentation of this major federal action into component parts has led to a piecemeal and fragmented analysis of environmental effects relative to Environmental Impact Statement (EIS) analysis. The NEPA rule against segmentation was developed to guard against such efforts.

The PFMC Groundfish Allocation Committee (GAC) recognized the need for the two amendments to be studied together:

> *"The GAC acknowledged that it is difficult to discuss Intersector Allocation (IA) without also thinking about trawl rationalization. The IA and trawl rationalization processes would have to be reconciled."*

- FWW concurs with the assessment of the PFMC Groundfish Allocation Committee, and asserts that improper segmentation of this major federal action is reason alone for the Department of Commerce to disapprove A21. The major federal action (A20 and A21) should be reconsidered as a single amendment. FWW requests that the Department of Commerce disapprove A21—select the status quo alternative—and send the PFMC back to the drawing board with respect to groundfish allocation.

Proposed Actions and Purpose and Need?

The proposed actions presented in A21 all relate to how to undertake a course of action that has (seemingly) already been decided: to make long-term formal allocations of groundfish species to the combined limited entry trawl sectors. This is putting the cart before the horse.

There is no statement of a policy problem, and thus no presentation of policy alternatives. What is presented for review is a predetermined course of action to lock in the lion share of groundfish quota to the trawl fishery. The alternatives presented are not alternatives but simply tweaks to the same plan. Of note, this lock in of access is described in A21 as a move required in the interests of "better business planning" rather than as a precursor to fishery access privatization.

> *"In support of the Trawl Rationalization Program, the main socioeconomic impact of Amendment 21 allocations is longer term stability for the trawl industry. While the preferred Amendment 21 allocations do not differ significantly from status quo ad hoc allocations made biennially, there is more certainty in future trawl harvest opportunities, which enables better business planning for participants in the rationalized fishery. This is the main purpose for the Amendment 21 actions."* [1]

This amendment has no public interest basis and is simply an egregious attempt to lock in special privileges for vested interests without any analysis of allocation alternatives.

- The regulatory principles in EO 12866 (Regulatory Impact Review) emphasize careful identification of the problem to be addressed and make it clear that the Department of Commerce should choose policy approaches that maximize net benefits to society. A21 does not identify a problem to be addressed nor does it provide alternatives that allow the choice of an approach that would maximize societal benefits. Yet the proposed action will undoubtedly have an impact on the economy of $100 million or more, and will affect jobs, competition, and local communities. FWW requests that the Department of Commerce disapprove A21.

Catch History: A Problematic Allocation Device

This proposed amendment illustrates the problems of using catch history as the means of undertaking intersector allocation; and by extension fishery privatization through the awarding of exclusive, transferable, and essentially perpetual limited access privileges in A20.

Catch history is influenced by past management decisions and neither reflects a past optimal intersector allocation, nor the basis for a future optimal allocation. Problematic practices may simply be locked in place—blocking innovation and continual improvement. The Groundfish Allocation Committee recognized this:

> *"The alternatives in the ISA analysis are based on historical catch percentages by sector. However, it was suggested by the NMFS representative to the GAC that there could be other ways to approach sector allocations. The current fishery is the result of years of declining catches, including declaration of a fishery disaster in 2001. In addition, the presence of overfished species has forced restructuring of the fishery to avoid harvesting these species, resulting in further changes to fishing patterns. The Amendment 21 ISA action is an attempt to allocate the groundfish stocks among the various sectors to reduce the risk that the activities of one sector will affect or be affected by the others. The initial strategy under discussion by the Council has been to look at recent harvest splits among the sectors and then lock in these harvest percentages, with some alteration of strict historical patterns on a case-by-case basis. However, the current harvest percentages are the result of several years of perturbations and, if the ISA were to have been done in the 1980s, an allocation based strictly on historical catches would likely have been different. If we were to do nothing, the fishery would be free to rearrange itself among the sectors as overfished species rebuild themselves and communities recover. In addition, the Council has received public testimony stating that an allocation directed more toward fixed gear could be more "environmentally friendly" and could help support more fishing communities. However, the impact of allocating quota to sectors based on other than historical methods has not been fully analyzed. In particular, an analysis could explore the impacts of allocating more than a historical proportion of quota to a sector on habitat, bycatch, overfished species, fishing communities, and endangered species."* [2]

- The PMFC should have analyzed ways to allocate other than through catch history. The GAC understood the merit of the concept of allocating access in such a way as to favor gear types that are more selective, have less environmental impact, and also happen to employ more people and provide potential for a higher quality product that is worth more at market. However, this analysis

[1] Ibid, at 201
[2] Ibid, at 254

was not undertaken. FWW asserts that A21 does not identify a problem to be addressed, nor does it provide alternatives that allow the choice of an approach that would maximize societal benefit—including environmental outcomes. FWW requests that the Department of Commerce disapprove A21.

Alternatives?

According to the Council on Environmental Quality (CEQ) Regulations for implementing NEPA, the analysis and comparison of alternatives is considered the "heart" of the NEPA process.

Careful allocation can integrate social, economic and environmental factors, assert public ownership of our ocean resources, and achieve the nation's goals for fishery management. As an indication of fair alternatives, FWW advocates the cap-rent-recycle model of LAPP management. This model supports public control of wild fish stocks, provides flexibility for management improvement over time, and creates an even-handed business setting. International support for the environmental fiscal reform tenets of the cap-rent-recycle catch share model is coming together—from the Pacific Coast to Washington D.C., from Namibia to Iceland, and from the United Nations to the World Bank.

In this context, environmental fiscal reform is about capturing resource rent. Resource rent capture will allow the government—the steward entrusted with management of the public's valuable resource—with revenue to invest in protecting the resource base, and ensure that extractors face the full social cost of their activities, which should lead to more efficient and sustainable use.[3] In the A21 DEIS this resource rental approach has not been explored as a robust alternative.

FWW asserts that within this resource rental system, agreements could be structured to support eco-friendly community-based cooperative catching and marketing business models that could be linked to an area-based management regime. Furthermore, the investment of rental revenues into ocean policy and programs is urgently required and consistent with the priorities of the Obama Administration and Congress to support economic development initiatives—including green jobs—and to enhance natural resource management.

Consistent with this position, the Joint Ocean Commission Initiative, when discussing the urgent need for an Ocean Trust Fund in the U.S. Treasury to supply greater funding for ocean policy and programs states as one of three central principles:

> *"Require Payment for the Use of a Public Resource: The use of a publicly-owned resource by the private sector in federal waters should be contingent on a reasonable return of some portion of the revenues to taxpayers in order to support programs that will help sustain the health and vitality of our nation's oceans and coasts."*[4]

With respect to the effect of a resource rental approach upon efficiency, Bromley (2009) states:

> *"The single policy innovation that will induce efficiency in the fishery is to require fishing firms to pay for the fish they catch. A market economy requires that all owners of factors of production—and fish in the EEZ are a factor of production to fishing firms—must receive a payment for their relative contribution to the value of the total product of the firm using those factors. In this case fish are the raw material (similar to gold, silver, timber, and oil) gathered up by the private sector and delivered to the market ready for further processing. Payment for this raw material is correctly understood to be resource rent."*[5]

FWW fact sheets explaining this concept are attached.

Conclusion

FWW asserts that A21 is one part (A20 and A21) of a major federal action that should be combined for review. The regulatory principles in EO 12866 (Regulatory Impact Review) emphasize careful identification of the problem to be addressed and make it clear that the Department of Commerce should choose policy approaches that maximize net benefits to society. A21 does not identify a problem to be addressed, nor does it provide alternatives that allow the choice of an approach that would maximize societal benefits. As presented, A21 is inconsistent with the Magnu-

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[3] The World Bank, Environmental Fiscal Reform, What Should Be Done and How to Achieve It. 2005, at 69

[4] Joint Ocean Commission Initiative, Ocean Policy Fact Sheet. New Funding for Ocean Policy and Programs. http://www.jointoceancommission.org/rc-fact-sheets.html, accessed June 2009.

[5] Bromley, Daniel W. Abdicating Responsibility: The Deceits of Fisheries Policy. Fisheries Vol. 34 (4). June 2009, at 287.

son-Stevens Fishery Conservation and Management Act in respect to National Standards 4, 5, 6, 8 and 9. The proposed amendment is not reasonably calculated to promote conservation (and does not even promote a reduction in bycatch); instead, economic allocation is its sole purpose. Finally, A21 does not provide scope for changing contingencies, nor does it take into account the importance of the resource to different communities. FWW requests that the Department of Commerce disapprove A21.

The PFMC should be sent back to the drawing board with respect to the major federal action (A20 and A21) to develop a long-term strategic assessment of the challenges and opportunities likely to affect the ecological and social systems of the Pacific Coast. This analysis should inform the development of a subordinate analysis of alternative designs for allocation of the groundfish resource, including community based fishery management models and market based approaches that assert the public trust (see FWW comments on alternatives). FWW respectfully requests that the Department of Commerce disapprove A21.

Attachments

[NOTE: Attachments have been retained in the Committee's official files.]

[A letter submitted for the record by Glen Brooks, President, Gulf Fishermen's Association, follows:]

The Honorable Madeleine Bordallo
Chairwoman
Insular Affairs, Oceans, & Wildlife Subcommittee
1324 Longworth House Office Building
Washington, DC 20515

The Honorable Henry Brown
Ranking Member
Insular Affairs, Oceans, & Wildlife Subcommittee
House Natural Resources Committee
1329 Longworth House Office Building
Washington, DC 20515

Dear Chairwoman Bordallo and Ranking Member Brown:

On behalf of the Gulf Fishermen's Association, thank you for the opportunity to provide information on Individual Fishing Quotas ("IFQs") for the subcommittee's hearing on fishery catch share programs. Commercial fishermen living in the Gulf region of the United States have greatly benefited from the implementation of IFQs, which have helped end overfishing, while preventing and even reversing the collapse of fisheries.

The Gulf Fishermen's Association is dedicated to ensuring the fishing future for all fishermen and is comprised primarily of commercial fishermen who are concerned about the fishing industry and its future. These organizations have been strong proponents of IFQs and support the development and implementation of similar programs, like catch shares, in other fisheries.

Until recently, red snapper fishermen in the Gulf of Mexico were faced with depleted stocks and an uncertain future. The Gulf's red snapper fishery has a long history in America, dating back to the 19th century. This fishery was rather stable until the 1970s and 1980s, when demand for fish began increasing as the technology to catch fish was improving. During that time, fishermen were able to catch fish easily and deplete abundant stocks; due to the decline, fishermen had to travel farther offshore to catch smaller fish. When regulators stepped in to establish catch limits, fishermen began racing against one another to catch as much fish as possible before the limit was hit and fishing shut down for the year. This "derby" style system resulted in large discards of dead red snapper, a decrease in fish prices, higher operating costs and dangerous fishing conditions, as fishermen risked their lives and boats in dangerous weather.

Fortunately, in 2007, the Gulf of Mexico red snapper fishermen began fishing under an IFQ program. Under IFQs, each fisherman is allotted a share of the total catch and is held individually accountable for adhering to that limit. Fishermen are able to fish throughout the year when it is good for business, as seasonal closures are not needed. Further, as commercial fishermen, we are able to deliver high-quality fish to market when consumer demand increases and the weather is suitable for fishing. Under an IFQ program, fishermen can lease or sell shares if they are unable to fish for any reason. Best of all, with an IFQ program, fish are not wasted

but retained and counted against the individual quotas. Under previous rules, fishermen were forced to throw fish overboard to comply with management directives.

The red snapper IFQ has engaged commercial fishermen in the Gulf, empowering them to be stewards of the resource, to run efficient operations and minimize the waste of fish. Further we have the ability to carefully target and market red snapper to earn more money with less fish. Catch share programs provide fishermen with an economic stake in the fishery, while holding them accountable to their allocation and health of the stock.

Recently, scientists said that the red snapper population is finally improving after decades of decline. The IFQ program has helped stop overfishing and will increase allotments of fish in the coming years. The commitment of commercial fishermen to the red snapper IFQ has helped the program succeed since its implementation.

An August 2009 report from the National Marine Fisheries Service's ("NMFS") Southeast Region stated that "two years after initial implementation of the red snapper IFQ program, progress has been made toward achieving [the] program's objectives—[which] include mitigating derby fishing conditions and reducing overcapacity."[1] The NMFS report also states that the IFQ's benefits are "numerous" and "include increasing flexibility for fishing operations; providing cost-effective and enforceable management of the fishery; reducing bycatch; eliminating quota overages; improving safety at sea; and optimizing net social, economic, and biological benefits from the fishery."

Many of these goals and objectives are already being achieved. For example, since 2006, the average ex-vessel value of red snapper has increased 10 percent when adjusted for inflation (17 percent when not adjusted). At the same time, the number of fishermen holding IFQ shares has decreased nearly 15 percent, demonstrating that fishing capacity is becoming aligned with the available catch.

The NMFS report also states that fishermen have benefited from the IFQ program through increased flexibility as to when and whether they fish, as well as how much they may catch. For example, in the 15 years prior to the implementation of the IFQ program, the commercial red snapper fishery was open for an average of 88 days. During this period, fishermen were limited to either 200-pound or 2,000-pound trip limits and 10-day fishery openings per month. Under the IFQ, fishermen are not constrained by fishery closures or trip limits; a fisherman is limited instead to his annual allocation or red snapper that he can catch throughout the year. Subsequently, the NMFS report states that "the IFQ program has lead to greater efficiency for many red snapper IFQ program participants."

NMFS also cites the biological benefits resulting from the IFQ program, saying that during the 17 years of management prior to implementation of the IFQ, the commercial quota was exceeded nine times. Conversely, in the first two years of the IFQ program, "reported [commercial] landings have been below quotas." Similarly, NMFS found that the ratio of landed to discarded fish has increased three to four times since the implementation of the 13-inch minimum size limit. The report acknowledges that while "the IFQ program is not directly responsible for large reductions in red snapper bycatch, it has indirectly allowed managers to implement a lower minimum size limit to achieve reductions in bycatch."

Commercial catch share programs such as IFQs also support good jobs in the seafood industry and throughout the broader economy. When catch share management is used, seasonal harvesting restrictions are often reduced or eliminated as unnecessary. The result is more stable employment for fishermen, as well as their suppliers and buyers, lasting for longer periods of time and helping to prevent economic harm to fishing communities that depend on the fishing industry to sustain their livelihoods.

The IFQ program currently in place for commercially-caught red snapper in the Gulf of Mexico has been extremely successful, as it allows fishermen to lower operating expenses, increases the price paid at the dock, and meets high conservation standards, which has improved both economic performance and safety at sea. A recovering fishery is good for commercial, recreation and other fishing interests.

We respectfully urge you to consider supporting the development and implementation of catch share programs in other fisheries throughout the nation. The future health of fishery stocks depends on the elimination of overfishing. Catch share programs can help meet this goal while providing fishermen with an economically sound and healthy resource to fish in the future.

Sincerely,

Glen Brooks

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[1] 2008 Gulf of Mexico Red Snapper Individual Fishing Quota Annual Report, August 17, 2009. Southeast Region, National Marine Fisheries Service.

President, Gulf Fishermen's Association
941-920-7302
Brooks3glen@yahoo.com

[A statement submitted for the record by Richard Carroll, Ocean Gold Seafoods Inc., Westport, Washington, follows:]

Statement submitted for the record by Richard Carroll, Ocean Gold Seafoods Inc.

Written testimony on Amendment 20 to the pacific Groundfish Trawl IFQ program

I would like to submit on behalf of myself and Ocean Gold Seafoods and the groundfish trawl vessel F/V Sea Clipper, the following comments regarding amendment 20 to the pacific ground fish management plan.

Amendment 20 was approved by the Pacific Fisheries Management Council at the November 2008 meeting, however it fails, in our belief, to meet the objectives and provide the benefits sought by the commercial fishing industry in a trawl rationalization program.

The goal of this process was to produce a comprehensive trawl rationalization program that would stabilize the west coast groundfish trawl fishery. We were initially hopeful this might occur, and still believe in the merits of trawl rationalization in some form, but as the details of this plan have come to light, we are left with a program we cannot support.

This plan like many before it, serves the interests of a few, against the greater interests of the many. Those currently attempting to derive their livelihood from commercial fishing on the pacific coast are shortchanged by this plan. This plan provides no compensation to the American public, to who this resource truly belongs. This plan by extending exclusive access privileges to federal groundfish permit holders attempts to achieve a conservation benefit that may or may not exist.

We have seen examples under catch share management where stocks were subjected to overfishing just as they were under other management schemes. The orange roughy fishery in New Zealand is just one such example.

The Pew commission analysis show the conservation benefits attributed to catch share programs have been overstated and oversold, and can be achieved with far less radical management alternatives. The environmental defense fund which has been one of the driving forces behind pacific groundfish trawl rationalization recognizes the problems associated with using catch history as a means of determining initial allocation.

Throughout this process, most of the problems in this plan were not addressed due to their structural nature. This amendment's primary flaws were built in at the outset, by those less interested in building a fisheries management plan then creating a retirement plan in which they were heavily vested. Approximately 40% of the non whiting ground fish allocated under this plan go to permits that are not active participants in the fishery. Active fisherman will be required to buy or lease quota upon implementation of this program just to achieve their status quo fishing levels prior to its implementation.

This plan considers historical participation that will be 17 years old at the time of implementation but not 7-year-old history, and this assumes the program will be ready for implementation in 2011. There has never been a successful rationalization plan implemented anywhere in the world with a qualifying period for allocation that contrasts so sharply from the current state of the fishery.

The National Marine Fisheries Service has publically expressed reservations about the inclusion of the early years of the qualifying year range, The inclusion rewards fisherman with quota during the same time period when their fishing behavior created the groundfish disaster this amendment is attempting to address. It includes years with inaccurate species composition data, and discard data that skew our picture of the true state of nature.

The problems with the year range in amendment 20 were recognized by the PFMC in their vote when they chose a different year range, rather than the 1994-03 for the purposes of allocation of by catch species. This was recognition that the qualifying period did not represent the current state of the fishery

For this reason I and my colleagues believe that Amendment 20 as currently conceived fails to meet the recentcy requirements outlined in the Magnuson-Stevens Act, and we expect that this will be demonstrated during the litigation this plan will likely encounter prior to its implementation.

Since 2000 we have seen significant changes in the markets and technology in ground fish processing. This has lead to a shift in fishing behavior and increased

values and market opportunities for the ground fish fishers and processors. Investments have lead to improved vessels that can fish deeper water, farther off the shelf and later in the year with lower bycatch

The effect of amendment 20 would be to undo all that has been accomplished in the last ten years. This plan rewards the inefficiencies, inadequate infrastructure and lack of investment that characterized the qualifying year window.

The overly historical and retrospective nature of this plan will result in allocations that shift catch from the present participants to the past, from the north to the south, from the new to the old, from the efficient to the inefficient. This plan if implemented as proposed would likely reverse some of the conservation benefits achieved in the last few years in the groundfish fishery.

We need a forward looking management plan that provides a transition to a rationalized fishery, without the burdens of significant additional investment the average fisherman cannot afford and will likely not make. This plan as currently configured will increase the level of consolidation that is likely to occur leaving many ports no longer viable. It will require the redirection of limited capital, badly needed for infrastructure and vessel improvement to acquisition of needed quota.

The best alternative to resolve the flaws and inequities in the amendment 20 ground fish trawl IQ program would be to adjust the year range to be consistent across sectors. 1997 is the point of creation of the three sector split in the whiting trawl fishery and the year range used by the offshore for their rationalization plans. In addition the PFMC and NMFS need to recognize a new control date of January 1, 2007. The year range 1997 through 2006 should be used for allocation of target species and 2003 through 2008 for allocation of by-catch species.

We believe Amendment 15 to the groundfish management plan created a, new control date of January 1 2007. The council, by taking action to create a moratorium to vessel entrants to the trawl whiting fishery and by including these years for the allocation of bycatch species has established the significance of this date for management purposes in the groundfish trawl program. The NMFS and PFMC need to recognize January 1 2007 as the correct control date for the purposes of consideration of recent participation in the fishery.

Seven years have passed since the 2003 control date was issued; the PFMC and the NMFS have an obligation to implement its proposed plan in a timely manner. The current industry participants should not be further penalized for the inability of the PFMC and the NMFS to do so.

We believe this would go a long way to address the many of the concerns about recent participation and eliminate the basic inequities in this program, making it more of a management plan and more consistent with the current state of the fishery

I hope that these comments will be considered and with the efforts of your agency there will be an opportunity to rectify the flaws in this proposed program.

Our goal is to produce a plan that will benefit the marine resource on which we rely for our livelihood, the fishing industry to which we belong, and the coastal communities in which we reside. If you have any questions, please contact me at 360-310-0664

[A statement submitted for the record by the Gulf of Alaska Coastal Communities Coalition follows:]

Joint statement submitted for the record by Fred Christiansen, Chairman, and Gale K. Vick, Executive Director, Gulf of Alaska Coastal Communities Coalition (GOAC3)

Chair Bordallo and Members of the Subcommittee:

Thank you for this opportunity for the Gulf of Alaska Coastal Communities Coalition (GOAC3) to provide a statement to the Subcommittee on Insular Affairs, Oceans and Wildlife on issues regarding fisheries catch shares.

We are submitting this statement on behalf of the GOAC3, a non-profit coalition formed in 1998 to provide a voice for the small coastal, fisheries-dependent communities of the Gulf of Alaska and to help ensure that they retain current, and regain lost, fishing effort in order to maintain sustainable economies to provide for the survivability of those communities.

The Location and Economy of Gulf of Alaska (GOA) Communities

The Gulf of Alaska (GOA) spans east to west over 2400 miles from its southeastern to its western most points, with the Aleutian chain separating it from the Bering Sea/Aleutian Islands (BSAI) to the west. The BSAI and GOA are two very

different and distinct eco-systems. The GOA is one of the most diverse large marine environments (LME) in the world. The Bering Sea dominates fishery productivity with a total fisheries biomass almost 10 times the biomass of the Gulf of Alaska.

The GOA encompasses a marine area of approximately 592,000 square miles. Within this area are 80+ coastal communities, over half of which are under 1,500 in population, not connected to each other and are fisheries-dependent in the clearest sense of the phrase.

The GOAC3 was established to provide a collective voice for the smaller coastal communities of the Gulf of Alaska that were that were without adequate representation in fishery regulatory arenas and were being severely impacted by regulatory decisions (42 of these are eligible under federal law for CQE designation by the National Marine Fisheries Service [1]).

In 1998, the out-migration of fishing effort was already taking its toll on local economies. By 2005, twenty-seven (27) of the smaller fishing communities of the Gulf of Alaska were considered "severely distressed" by the State of Alaska. In 2010, the situation has grown worse.

The remote communities of the Gulf of Alaska operate in an exclusively marine environment. No roads connect them to the mainland; access is only by air or water. Weather dictates much of the travel to and from the communities. As may be expected, fishing and marine-related activities dominate the economies and the importance of the fishing industry on the community fishing families and related businesses is profound. In Southwest Alaska, for instance, the fishing industry accounts for just over half of all private-sector employment.

"It's no exaggeration to say that many Southwest Alaska *communities would virtually disappear without fishing*," reported Dan Robinson and Michael Patton, co-authors of a 2006 State of Alaska Department of Labor report on "Employment in Alaska's Fisheries." The authors expanded this observation to include Aleutians East, Kodiak Island, Lake and Peninsula Borough, Central Gulf communities and Southeast—basically, all of the unconnected communities of the Gulf of Alaska.

A Contrast in Community Protections for North Pacific Fishing Communities

Alaska leads the nation in both fisheries value and number of catch share programs but it is still evolving in its understanding and prudent application of catch shares, particularly in regard to community protections.

On one end of the spectrum in terms of providing communities access to fisheries is the enormously successful "industrial model," i.e., the western Alaska Community Development Quota (CDQ) program, which was granted rights to ten percent (10%) of Bering Sea and Aleutian Islands (BSAI) rationalized species, received start-up capital through their joint venture operations and has received federal loan access. This program was originally implemented by the North Pacific Council in 1992 and subsequently authorized by the Magnuson-Stevens Fishery Conservation and Management Act (MSA). The six CDQ corporations (representing 65 communities) now own hundreds of millions of dollars in assets and receive millions of dollars each year as rents for their ownership rights. In general, others fish those rights through joint venture arrangements providing income to the CDQ corporations and to the communities.

On the other end of the spectrum are the 42 communities of the Gulf of Alaska who were authorized by the 2004 Amendment 66 to the GOA Groundfish Fisheries Management Plan, to form individual (or collective) non-profits to purchase halibut and sablefish quota shares and to subsequently lease those quota shares to local residents. This resulted in the Community Quota Entity (CQE) program under the Halibut and Sablefish IFQ program. It is strictly a small boat, local resident, "owner on board" program, with no initial fishing assets unlike the CDQ communities. Because of the lack of quota shares and funding access, the CQE program, though well intentioned, will have no value to and cannot assist the small communities until they can secure a CQE loan program that is workable and/or granted income for purchase of quota share or granted quota share itself.

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[1] The 42 small coastal fisheries-dependent communities that the GOAC3 was established to assist are located in three fisheries areas in the Gulf of Alaska as follows:

Area 3A (Central Gulf): Chenega, Tatitlek, Seldovia, Nanwalek, Port Graham, Tyonek, Halibut Cove, Old Harbor, Ouzinkie, Port Lions, Karluk, Larson Bay, Yakutat;

Area 3B (Western Gulf): Sand Point, Perryville, Chignik Bay, Chignik Lake, Chignik Lagoon, King Cove, Ivanoff Bay, Akhiok; and

Area 2C (Southeast): Angoon, Coffman Cove, Edna Bay, Elfin Cove, Gustavus, Hoonah, Kake, Craig, Kasaan, Klawock, Thorne Bay, Hollis, Hydaburg, Metlakatla, Meyers Chuck, Pelican, Point Baker, Port Alexander, Port Protection, Tenakee Springs, and Whale Pass.

Both the CDQ and CQE programs were based on the need to help coastal communities deal with extreme economic challenges, but for different reasons. The CDQ communities had demonstrated that their lack of infrastructure prevented them from participating in the lucrative—and growing—industrial fishing in their "back yards." In contrast, the smaller fishing communities of the Gulf of Alaska were able to demonstrate that fisheries regulatory practices had significantly contributed to their increasing loss of traditional fishing access.

Neither the CDQ nor the CQE program is inclusive of all fishing communities within their respective regions, but general similarities end there. The contrasts between the two programs' financial and political status could not provide a clearer lesson to fishing communities everywhere: Unless a community owns rights to a percentage of non-transferable quotas (as the CDQ communities do), it really has nothing. Therefore, today, there is a huge disparity between the CDQ communities of the Bering Sea and the CQE communities of the GOA.

The GOAC3 was the primary motivator for the CQE program concept but openly opposed the purchase-only concession to the fully rationalized Halibut and Sablefish IFQ program because, without initial issuance of quota, it was going to be extraordinarily difficult to launch the CQEs; there was simply nothing to leverage. In the end, the choice was to accept purchase-only terms or not get a program at all. At the time, we knew purchase was going to be a hard road. We just didn't know how hard.

Since the Gulf of Alaska CQE program was authorized in 2004,[2] only 20 CQEs have been formed as of late 2009 and only two have actually purchased quota share of any kind and those have not even come close to purchasing quota share up to the caps authorized. Neither of those purchases was able to use the State CQE loan program or federal loan programs. Both of those CQEs are currently operating on thin margins, having obtained private financing that is not likely to be replicated in other areas nor expanded utilizing existing state loan opportunities.

There are many substantive reasons for the lack of participation in the CQE program (most recently outlined in the CQE Review Report by the North Pacific Fishery Management Council), but the simple answer is a lack of funding (loans and grants) with which to purchase quota share. The CQEs did not receive gifted shares (like CDQs) nor was the CQE program funded administratively. Given the absence of quota share, percentage of catch or funding, it should not be surprising that the CQE program has generally not worked.

The CQE program could work extremely well if funded. A key factor in trying to craft a remedy for the CQE program is the fundamental public policy distinction between a program for individual fishermen and one for small fishing communities. Community goals, purposes, and outlook are for the greater good of all of the people in that community as opposed to what is best for one individual or one family. In other words, the strategies for financial help that may work for an individual fisherman are not necessarily applicable to a community-based organization. This important distinction is the reason that the current application of financial remedies for individuals most often does not work for an organization in the community trust.

For a newly formed community non-profit CQE in a remote community without assets to leverage and with an additional layer of administrative burden, it is a seemingly impossible task to utilize existing loan programs and/or attract grants that can help CQEs purchase quota share and still be able to pay their debt service. To address this conundrum, the GOAC3 working with many of the GOA communities, economists, fishermen and fishing community representatives have been working on the development of a loan program that would work. This group has identified specific loan terms that will "pencil out" but currently do not exist in the open market. Such a program, although not as helpful as the granting of quota shares or TAC to communities, would be of enormous benefit. This will require lawmakers (and regulators) to act. Such a plan is being strongly recommended to the State of Alaska by small communities of the GOA and it would make sense to have something similar at the federal level to help implement the federal CQE program in the GOA.

The Value of Combination (Diversified) Fishing

The economic viability of the fishing communities in the Gulf of Alaska is based on small boat, "combination," (i.e. "diversified") fishing. As fish species fall into var-

[2] The CQE program was established as an amendment (#66) to the Fishery Management Plan (FMP) for Groundfish of the Gulf of Alaska and an amendment to the Pacific halibut commercial fishery regulations for waters in and around Alaska by the North Pacific Fishery Management Council. The CQE program was made into a Final Rule in the Federal Register, Volume 69, No. 84, April 30, 2004, Rules and Regulations, page 23681, June 1, 2004 and 50 CFR 679.2)

ious rationalization (catch share) programs, the ability to maintain a boat and gear that can fish multiple species and be able to purchase permits or quota shares has become increasingly problematic.

The following observations on this subject were made in connection with a workshop in 2000 conducted by the H. John Heinz III Center entitled "Improving Federal Fisheries Management in the North Pacific" at which community participants discussed their experience in the loss of diversified fishing as the backbone of small community fisheries economies:

> "Some participants said that small fishing communities will not be able to last unless they can diversify over different fisheries. But, others noted that the management trend is the opposite—to push people into discrete fisheries. This happens because when new programs are developed, people without a fishing history during the qualifying period do not receive licenses...Specialized programs have cumulative effects that require cumulative assessments of their impacts. There was some agreement that small coastal communities have their own culture and have their own way of doing things, in contrast to the one-size-fits-all style of the federal government...Some participants noted that many small communities were at a disadvantage when it came to individual fishing quota allocations because their diversified fishing patterns left them without substantial fishing histories during the window period."

Fisheries regulatory decisions very often continue to help out the "haves" vs. the "have-nots." Fishing communities need the Congress to ensure that federal policies and programs do not preordain the dismemberment of their communities because the moneyed interests in the fishing industry are able to be most effective in securing for themselves "public assets" such as federal fisheries resources.

Catch Share Programs Create Dramatic Shifts

Most small coastal communities in Alaska are entirely fisheries-dependent, with many of the Alaska Native villages having "fishing histories" going back 8,000 years and more. Over-capacity of fishing effort is not an issue in any of these communities; quite the opposite is true. However, because catch shares are designed for a fishery and not a community, the vulnerability of communities is acute. The economies of scale can make even a single catch share action very debilitating to a community if not crafted with the sustainability of both fisheries and communities at the forefront.

Dr. Marie Lowe of the University of Alaska Institute of Social and Economic Research (ISER) wrote in her paper "Eastern Aleut Society Under Three Decades of Limited Entry" (for salmon): "Aleuts who were not given permits initially could not afford to purchase these." This situation, Dr. Lowe notes, resulted in Aleut migration away from their home communities to search for jobs. This simple statement illustrates an increasingly common situation that prevails throughout all Alaskan small fishing communities and has resulted in wholesale shifts in population, gear and income.

At the time the North Pacific Council was considering the CQE program (2001-2002), there had already been a significant out-migration of quota share of halibut from small communities since the 1995 IFQ program implementation. By 2009, the National Marine Fisheries Service RAM Division reported that CQE communities had lost between 29-45% of their initial IFQ holdings in halibut and up to 89% of their initial sablefish holdings. This does not include pre-IFQ fishing effort, for which there is no data, particularly for Alaska Natives who have depended on the sea for their survival for centuries. That data would be expected to indicate a much greater loss.

The qualifying years for the halibut and sablefish IFQ program has often been criticized for its narrow window of time. In his 2004 report on Alaska Residency in Alaska Fisheries, Neil Gilbertson, an economist with the Alaska Department of Labor, wrote:

> "When the IFQ program was finally adopted in 1995, only fishermen who had landed halibut in 1988, 1989, or 1990 were allowed quota shares. These shares were based on the individual's production in the 1984-1990 period. Under these terms, many new or one-time participants were excluded, and this exclusion led to a dramatic decrease in resident participation."

Nor was there an accommodation for communities with a proven historical dependency. The North Pacific Council did not, because it was not required by law, consider the thousands of years of traditional halibut fishing by Alaska Native communities. Archeological data suggests that GOA coastal communities, when unimpeded by limited access, maintained highly sustainable fishing cultures for millennia.

Dr. Steven Langdon, University of Alaska Department of Anthropology, wrote in his 2009 paper[3] on the CQE program:

> "A series of distinct archeological traditions and adaptations appeared in the central Gulf of Alaska region from the Kodiak Archipelago to Prince William Sound approximately 8,000 years ago. Continuity with contemporary peoples of this region, known collectively at Sugpiaq or more recently Alutiiq, can be identified at least for 1,000 years in certain locations and for nearly 4,000 years in other locations. In all of these regions, archeological evidence and oral tradition demonstrate that these groups built complex societies with rich ceremonial practices based on their relations with rich resources of the Gulf of Alaska ecosystem."

Cumulative Impacts of Catch Share Programs

Small fishing communities in the Gulf of Alaska are dying through no fault of their own. Since the implementation of Limited Entry for salmon in the mid 1970's, through the more recent Halibut and Sablefish IFQ program and the fall-out to the Gulf of Alaska from the Bering Sea Crab Rationalization Program, the fishing communities of the Gulf are virtual shadows of their former selves. For example, one Southeast Alaska community lost almost half its population since 2000. This IS a crisis. And many of those, if they had jobs in fishing in the community would return.

The pending LLP reductions and sector allocations of groundfish are going to exacerbate the problem, even with community provisions. The fishing communities of the GOA wonder what further has to happen in terms of a wake-up call for lawmakers to understand that community fisheries will disappear altogether without immediate remedial action.

The communities are not alone in their concerns. Dr. Seth Macinko, Department of Marine Affairs, University of Rhode Island, a member of the North Pacific Council Science and Statistical Committee, raised in Kodiak, author of many fisheries papers, is a strong critic of approaches to IFQ programs that don't consider the severity of unintended consequences, unequivocally stating "Coastal Alaska is dying. I question how much longer permanent giveaways to selected individuals will somehow make communities better off. This process is killing us."

Loss of fishing access means loss of boats, gear, jobs, infrastructure and eventually schools. It is not just fishing families who suffer, but all the families dependent on the support systems. When the economic dominoes start to fall, social ills increase: alcoholism, drug abuse, child and spousal abuse, teenage suicide and unemployment rates become toxic, jeopardizing the viability of the community. Families are forced to move to urban settings where the opportunities for failure are much greater. Kids who learned from their parents how to work hard and make a living from the sea are similarly displaced. The skill sets that people took for granted for generations are lost. Families are split up. Briefly stated, it is a human disaster that is totally preventable.

A letter written just a few weeks ago by the Mayor of the City of Pelican, once a very vibrant fishing community, expressed the following:

> "One look at the Pelican Boat Harbor and one can see that employment opportunities are scarce. Many coastal communities are on the brink of economic collapse. We need to generate fishing jobs and opportunities for our residents...furthermore, Pelican struggles to stay current with fishing regulations because we have experienced first-hand the consequences of government regulations that have eroded our ability to sustain our economy through our traditional fisheries."

It is the cumulative impact of catch share programs on the loss of diversified fishing that is the most devastating. As species are rationalized, all other species still in open access are marginalized. Not only is the cumulative loss often unsustainable, but also the combination fishing cycle can actually contribute to a loss of fishing in qualifying years, thereby making a community fisherman ineligible for initial quota. Regulators simply do not have the statutory guidance, much less a tool set, that will guide them in sufficiently addressing cumulative impacts on fishing communities.

The High Cost of Entry into a Catch Share Program

Catch shares can dramatically increase the cost of entry into a particular fishery, especially over time. For people who qualify for initial issuance, that is the point of creating a catch share program, they simply want the value. The halibut IFQ pro-

[3] "The Community Quota Program in the Gulf of Alaska: A Vehicle for Alaska Native Village Sustainability," "Enclosing the Fisheries: People, Places and Power", American Fisheries Society 2009, Dr. Steve J. Langdon, Department of Anthropology, University of Alaska Anchorage.

gram, for instance, more than tripled the price of quota share in just the last six years alone.

At average current prices, a small amount of quota—12,000 pounds as example—will cost up to $300,000. Larger amounts run into the millions. Remote fishing community residents often cannot collateralize their homes because of lack of valuation or no available fire protection, and cannot meet minimum loan requirements. This compounds a long list of complicated scenarios caused by rationalization, not the least of which is loss of fishing access that residents had previously depended on to live in their home community.

For a CQE to purchase quota there are additional costs and complications. Even with community-held quota, the supreme irony of community residents having to lease back fishing effort that they once utilized for just the cost of gear and boats under an open access fishery is never far from one's mind during discussions about the cost of entry to a fishery. Tony Gregorio, long time Chignik multi-species fisherman knows full well that most small community residents cannot afford to buy. "It's like taking away someone's job and then charging them outrageous rates to get it back." This makes the CQE program the only viable option...if it were working.

Feasible CQE Loan Program Could Make The CQE Program a Model Soon

Every region of the nation is different but fishing communities around the country share many elements and concerns in common. Fishing communities, regulators, NGOs, etc., are all looking for models that illustrate their particular point of view.

The GOAC3 has been concerned that the CQE program has been held up as a model to emulate. We hope it will soon become one to emulate, it is just not there yet. One of this coalitions primary goals is to see that loan programs are developed that will facilitate full implementation over time of the CQE program as authorized by federal law.

The Gulf of Alaska CQE program would be a good model except for the serious flaw that there was no initial issuance of quota (or sufficient seed funding) as was made to the CDQ communities in the Bering Sea and, in the alternative, there is no loan program in place that "pencils out" so that community CQEs can actually purchase the quota share allotted to them under the law.

In the Gulf of Alaska, people want to work and specifically want to work in the fishing industry. It is where their roots are. It is integral to their history and culture. Many communities have people who have moved away who would move back in an instant if the CQE program were functional. The exodus must be reversed and reversed soon if there is to be a rural coastal Alaska with real viable communities intact.

If the CQE communities are able to capitalize on the CQE program in the immediate future, many of them might have a chance to revitalize their community economies. CQE communities are desperately searching for solutions that can help them make the margins work. They are running out of time. This is a human crisis of historic proportions, one that has been triggered by past regulatory actions and one that can be fixed at the will of lawmakers and regulators with an understanding of how catch share programs affect fisheries-dependent communities.

The High Cost of Participation in Regulatory Arenas:

A comment frequently heard at the community level: "When the voices go away because they have been driven away, they are no longer able to communicate their story."

But seeking a voice in regulatory arenas is an arduous and expensive process. The GOAC3 has played a significant role in representing the smaller fishing communities of the Gulf of Alaska simply because those communities cannot afford, on their own, to attend the years of regulatory meetings necessary and to garner even minimal political support. The issues are so diverse and complex that fishery meetings go on year round. Even veterans find themselves mired. Meetings are "open and transparent" but not without significant cost. The Council, for example, meets five times a year for nine days at a time, four meetings in Alaska, one in Seattle or Portland. The annual cost (air fare, housing, meals, etc.) for a single individual from a remote Alaskan community to attend Council, related committees and Alaska Board of Fisheries meetings can run as high as the equivalent of a year at Harvard (over $50,000.) Yet the Council's and Board of Fish decisions have enormous impacts on Alaska's coastal communities." It is therefore an absolute necessity to have an advocacy and information sharing and coordinating organization that can help the smaller communities, especially, have any voice at all in such forums.

What will it take to Revitalize and Sustain Small Fishing Communities?

Any catch share program will have "winners and losers," but fishing communities have unique situations that should encourage lawmakers and regulators to take

extra precautions to avoid creating unnecessary economic devastation across a broad swath of coastal America. Here are some essential requirements we believe necessary for a community quota program to fulfill the intent of *anchoring* fishing effort in a fisheries-dependent community in perpetuity:

Either:

1. Gifted Quota Shares or gifted set percentage of TAC (total allowable catch)
2. Ability to purchase Quota Shares
3. Non-transferable quota
4. Eligibility for loans
5. Consistent "Code of Conduct" (operational criteria) and good management
6. Single umbrella organization identified for technical assistance and advocacy

Or:

1. Ability to purchase Quota Shares and sufficient seed funding to both purchase Quota Shares and administer a program until there is an adequate revenue stream
2. Eligibility for loans that are specifically designed for community quota purchase
3. Non-transferable Quota Shares
4. "Owner on board" requirement (i.e., the individual community resident who leases the Quota Shares form the CQE must actually fish the quota themselves)
5. Consistent "Code of Conduct" (operational criteria) and good management
6. Single umbrella organization identified for technical assistance and advocacy

A 2004 General Accounting Office (GAO) report regarding methods for community protections under an IFQ program stated:

> "Several methods are available for protecting the economic viability of fishing communities and facilitating new entry into IFQ fisheries. The easiest and most direct way to help protect communities under an IFQ program is to allow the communities themselves to hold quota." (Emphasis added).

This recommendation has been reinforced by the last two reauthorizations of the federal fisheries management act that governs actions of all the fishery management councils.

Federal Law Supports and Encourages Fishing Community Protections

The 2006 Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (MSRA) reiterated the national standards of the 1996 reauthorization, specifically the National Standard No.8 relating to fishing communities:

> "Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities by utilizing economic and social data that meet the requirements of paragraph (2), in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts of such communities."

The April 4, 2006 Report of the Committee on Commerce, Science and Transportation on S. 2012 stated:

> "Coastal communities dependent on fishery resources crossing their docks and the associated taxes and jobs from related shoreside businesses have raised concerns that quota programs reward the "actual participants" but ignore the community and next-generation fishermen who were not part of the initial allocation and could be forever priced out of the fishery."

Further, the report defined the fishing community section of MSRA relative to holding harvest privileges. [4] It is very clear that the Senate intended MSRA to pro-

[4] "Fishing Communities,—New section (303A(c)(3) would establish that fishing communities may be deemed eligible to receive and hold harvest privileges if they meet criteria developed by the relevant Council. According to new section (303A(c)(3)(A)(i), the community would have to (1) be located within the management area of the relevant Council, (2) meet criteria developed by the relevant Council, approved by the Secretary, and published in the Federal Register, (3) consist of residents who conduct commercial or recreational fishing, processing, or fishery-dependent support businesses with the relevant Council's jurisdiction, and (4) develop and submit a community sustainability plan to the Council and Secretary. This plan must address the social and economic development needs of the community, including those who have not historically had access to resources to participate in the fishery. "..Participation criteria for a Council to consider are: (1) traditional fishing or processing practices in, and dependence on, the fishery, (2) the cultural and social framework of the fishing community, (3) economic barriers to access to the fishery, (4) the existence and severity of projected socio-economic impacts associated with a LAPP (limited access privilege program) on participants in the fishery and related businesses, (5) the expected effectiveness, transparency and equitability of the community sustainability plan, and (6) the potential for improving economic conditions in remote coastal communities that

vide additional and specific protections to those small, remote fishing communities that were most likely to be disadvantaged by catch share programs.[5]

Conclusions and Recommendations

Catch Share programs around the country (including Alaska) remain highly controversial. They have some benefits to safety, product quality and markets, as well as conservation (in some cases) but they have consistently been detrimental to fishing communities by virtue of how they were implemented and by whom. Catch share programs can have the effect to consolidate fleets, reduce crew, and automatically raise the price of entry via increased quota share prices.

Designers of catch share plans need to both recognize and admit that fishing communities are likely to take the biggest hit as the cost of participation will most often result in fishing effort leaving the community, perhaps to the final demise of that community. After the initial shifts of quota, the real costs may not be known for years. By then, it will likely be too late to salvage or resurrect what may be the only way for a community to survive. And this loss becomes a loss to the larger hub communities as well as they experience loss of buying power for goods and services, fish landings, taxes and increased burdens to social services organizations.

The best ways to help fishing communities become self-sustaining is to grant them a certain amount of initial issuance of the public resource quota share either individually or through a collective arrangement, or, to grant them a percentage of the annual catch limit on a particular species for lease to community residents or a combination of both. In a fully rationalized fishery—one already under a quota share program—the best option is to provide a combination of grant funding and loan funding with loan terms that are realistic and feasible for such communities.

If the small fishing communities of the Gulf of Alaska, for instance, cannot have access to a *specifically designed* loan program they will need a significant amount of seed capital and/or a percentage of the annual catch limit in some form in order for the CQE program to be feasible for them to utilize and to help such communities obtain over time the quota shares authorized by law.

Once CQEs are able to access such opportunities, and can obtain by gifting or purchase, over time, their allocation of quota shares established by federal law—they will be able to sustain themselves using fishing and related means of economic diversification to make their communities viable into the future.

In closing, we wish to make the following recommendations to the Subcommittee on Insular Affairs, Oceans and Wildlife for its consideration and potential action:

1. **Ensure that catch share programs recognize the unique circumstances and needs of small fishing communities:** Include in the design of any catch share programs recognition of the economic needs and history of fisheries-dependent fishing communities looking far beyond just the catch histories of individuals, of the importance of aiding opportunities for combination (or diversified) fishing, and of the cumulative adverse impacts of many catch share programs.
2. **Authorize and Direct the Development of a CQE Loan Program:** Authorize and direct the development of a CQE loan program with terms and conditions that are feasible and equitable for CQEs in small coastal communities of the Gulf of Alaska.
3. **Require Fishery Management Councils to Report to Congress Annually on their Achievements on Behalf of Small Communities in their Regions:** Require that each Fishery Management Council report annually to Congress on its work in the past year that genuinely and specifically involved and accommodated in its decisions the needs and concerns, including particularly access to fisheries, of the small fisheries-dependent communities in their regions.

The people of the Gulf of Alaska whom this coalition was established to assist will be deeply indebted to the Members of this Subcommittee, as well as to House Natural Resources Committee, for your respective efforts to achieve workable solutions to help make sure the CQE program actually works for the small CQE communities of the GOA.

Thank you for the opportunity to submit this statement for the record of this Subcommittee's hearing on catch shares.

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lack resources to participate in fishery related activities. The Committee intends the Councils to consider as "traditional" those uses that pre-date contemporary commercial fishing in smaller, isolated communities that can demonstrate historic dependence on combination fisheries or participation in the fishery during years that may not fall within the qualifying period for individual LAPPS."

[5] Senate Committee Report No. 109-229, April 4, 2006, to accompany S. 2012 to reauthorize the Magnuson-Stevens Fishery and Conservation Management Act (16 U.S.C. 1801 et.seq.)

[A statement submitted for the record by Mary Beth de Poutiloff, Fisherwoman, F/V Blue Ocean, F/V Patience Too, Provincetown, Massachusetts, and Harrington, Maine, follows:]

Statement submitted for the record by Mary Beth de Poutiloff, Fisherwoman, F/V Blue Ocean, F/V Patience Too, Provincetown, Massachusetts, and Harrington, Maine

RE: Block NOAA's Catch Share Funding & Impose a Catch Share Moratorium

Vote NO on NOAA's budget for Catch Shares and help save the fishermen and their communities.

NOAA's budget request is indicative of lack of commonsense, communication and cooperation with the fishing industry. Their objective seems to be about destroying fishermen and our communities. Stock assessments, science, Magnuson-Stevens Act and real data, is unnecessary in their quest. This is why the fishery management plans are designed to fail?

My family has been fishing for scallops for over 20 years. Scallops are not over fished now or recently. In fact, the resource is at the second highest level since keeping records. Some closed area scallops are dying of old age.

With the Catch Share management tool my family can fish only 4 days this year. Scallop Amendment #11 took over 2900 permits and qualified only 329 small boats. Of these 329, very few boats are viable under ITQs/Catch Shares. I only know of one boat that can make a living. The rest are like my family-1 day, 2 days, 4 days, or 9 days.

Catch Shares is an economic tool not a conservation one. It is a redistribution of wealth. The majority of the fishing industry is against this unfair consolidation of fishermen. We have abided by the strict regulations, made sacrifices, and we were led to believe when the stocks rebounded we would be able to share the bounty. What happened to those promises? Why are current stock assessments being ignored?

NOAA is on a train wreck with the Catch Share scheme. A public resource is about to be lost to a wealthy few. This is discriminatory and in 2007, the United Nations agreed. No one has the right to ownership through transferability. The rich should not be able to buy something that should not be for sale.

For every fishing job it supports 6.6 jobs on land (Univ. of Maine). We need more jobs not less. Why spend taxpayer's money to put us out of work unnecessarily? This makes no sense. What are all these displaced fishermen and related businesses to do?

The small boat family fleet does less harm to the resources, the environment and our money supports coastal communities. Why is NOAA favoring huge, corporate fleets while the small boats are practicing sustainable fishing? We need diversity in our fleet to sustain our resources.

NOAA is requesting to spend $54 million dollars on Catch Shares that the fishing industry does NOT need or want. This should be raising red flags! All fisheries management plans need to rely on timely, accurate science. Yet, Dr. Jane Lubchenco wants to siphon money from our cooperative research to force Catch Shares.

We need a 2-year Catch Share moratorium and Congressional oversight hearings for the Council, NMFS/NOAA-mismanagement, corruption, conflict of interest and breaking the Magnuson-Stevens Act (MSA). No one should be exempt from laws. The flexibility in rebuilding our resources is also needed immediately.

My kudos to our elected officials, who all ready have joined our efforts to insure the continuance of the fish AND the coastal communities. A 400-year old tradition does not deserve to die because of mismanagement.

Senators—Bruce Tarr, Scott Brown, Charles Schumer, George LeMieux, Richard Burr, Kirsten Gillibrand, Kay Hagan.

Congressmen & women—John Tierney, Barney Frank, Henry Brown, Walter Jones, Carol Shea-Porter, Frank Pallone, John Mica, Cliff Stearns, Ileana Ros-Lehtinen, Adam Putnam, Bill Posey, Ron Paul, Solomon Ortiz, Michael Michaud, Mike McIntyre, Larry Kissell, Peter King, Patrick Kennedy, Alan Grayson, Ander Crenshaw, Joe Courtney, Donna Christensen, Michael Capuano, Ginny Brown-Waite, Allen Boyd, Jo Bonner, Tim Bishop, Gus Bilirakis, Bob Andrews, John Adler, Peter DeFazio.

Governors—Deval Patrick, Rick Perry, Bobby Jindal, Haley Barbour, Bob Riley.

Mayors—Scott Lang & Carolyn Kirk and Reps. Ann-Margaret Ferrante, Tony Cabral, John Quinn, William Straus, James Cantwell, Stephen Canessa, Robert Koczera.

[A statement and attachments submitted for the record by Shawn C. Dochtermann, Executive Director, Crewman's Association, follows:]

Statement submitted for the record by Shawn C. Dochtermann, Executive Director, Crewman's Association, Kodiak, Alaska

Honorable Chairwoman Madeleine Z. Bordallo and Subcommittee members:

I'm Shawn Dochtermann, a lifelong commercial fisherman from Kodiak, Alaska with 31 years experience. Currently participating in salmon, halibut, cod and the Bering Sea (BS) crab fisheries, I'm commenting today as the executive director of the Crewman's Association.

Alaskan's Privatization programs (IFQs) are the examples of Catch Share programs gone wrong that need to be modified before other Fishery Management Plans (FMP) are sabotaged. Otherwise, new Catch Shares systems will absolutely be detrimental to United States coastal fishermen and their communities, in Alaska and elsewhere.

• **We're seeking a 2 to 3 year moratorium on Catch Shares,** so that they will be properly designed to promote conservation and protections of fish stocks, as well as preserve local jobs and fishery-dependent coastal economies. This would include the Gulf of Alaska rockfish FMP.

A Kodiak-based group, the Crewman's Association represents crewmen and captains, and as vessel owners in Alaska and on the West Coast. Our major goal is to gain fair and equitable access and compensation to all stakeholders. We have made multiple proposals to the North Pacific Fishery Management Council (NPFMC) since April of 2007 (Attachment 1), primarily regarding the Bering Sea Aleutian Island Crab Rationalization (BSAI/CR) program.

• Our message today is that Catch Shares are not pretty, as the highly flawed BSAI/CR program demonstrates. Our bad experience offers you a key example of what can go wrong.

In the Bering Sea (BS) crab fisheries, the Total Allowable Catches have dropped, ex-vessel prices have fallen considerably, fleet consolidation has been dramatic, and we've seen a staggering job loss of over 1,000 jobs (while 450 remain). The crew-level economic losses were two-fold.

First, the crewmen lost approximately $400 million in harvest quota shares (HQS) due to the unjust taking by the License Limitation Permit (LLP) holders while capturing over $1 Billion dollars in initial HQS giveaways for themselves. Thousands were disenfranchised with no job relocation or retraining benefits. Second, remaining crewmen lose millions more in reduced annual compensation.

• **NOAA has never utilized Lay Share laws to protect crewmen** from being forced into sharecropper status, or asked for confirmation that vessels pay crewmen with settlements that can be reconciled, as the trip recaps are usually incomplete accountings.

- We have settlement sheets from crewmen that prove that crab harvest quota shareholders are siphoning off most of the profits from the BSAI crab fisheries.
- Exorbitant lease rates upward of 70-80% are being extracted off-the-top before trip settlements, and crewmen are receiving unfair and inequitable compensation ratios.
- The CR program needs to be modified to follow MSA law and National Standards in order to protect fishermen and their communities, and to ensure a fair ex-vessel value is being received at the dock for product deliveries.

• Congress needs to step in and modify all Dedicated Access Privilege (DAP) or "catch share" programs so that they utilize "owner on board" requirements, before any other Catch Shares program should be implemented.

- We want a 2 to 3 year moratorium on Catch Shares.
  - Other DAPs must be brought up to snuff, so that they abide by the National Standards, can be completed by new Congressional legislation and undergo more complete review by the SOC's office.
  - We need to put strong provisions on Catch Shares to ensure that large fish corporations and processors cannot become the absentee owners of most U.S. fisheries.

I'm not saying we're advocating for IFQs/Catch Shares, but we understand that just saying "NO" has done nothing for us in the past. We'd rather hear that Congress would like to find commons-based solutions while retaining public ownership

and providing future generations with opportunities, rather than privatize the rights only for a few large economic players.

These provisions should be installed and stringently adhered to if Catch Shares are used as a tool in the future.

1. **Owner on Board & assurances HQS can't be purchased by non-participants**
2. **Crews' historical ratios of compensation must be protected**
3. **Vessel caps need to be kept smaller to protect the small vessel fisheries**
4. **No processor affiliations (i.e. no fleet linkages to specific processors)**
5. **Limited duration—with a possible guild system built in**
6. **Limited leases, only allow for verified crew to buy in (if a guild or point system was not used).**

We attended the Oceans Policy Task Force Hearing in Anchorage, AK on August 21, 2009 and read into the record, "Adjacent but Alienated by Catch Shares" (Attachment 2), which was a compilation of the problems with the BSAI/CR privatization regime.

Dr. Jane Lubchenco was handed a copy (with my business card attached) and asked to contact us if she had any questions. She has never contacted us. Is that a sign NOAA administrators don't care how flawed DAPs are—just like the North Pacific Fishery Management Council (NPFMC)?

The Problems of BSAI CRAB RATIONALIZATION:

We've spent the better part of 6 years at the NPFMC asking that the CR program be modified to include "fair and equitable" historical compensation for crewmen, captains, and vessel owners.

- Due to jurisdictional violations by former Senator Ted Stevens Due Process was never served, as the CR was initiated as an appropriation's Rider on a must pass Appropriations bill (Attachment 3) in November of 2003.
- National Standards (NS) of the MSA that were enacted by the Sustainable Fisheries Act of 1996 (SFA) were not adhered to—especially NS#4, 5, & 8, as a result of misguided legislation.

The CR "Purpose and Needs Statement" outlined the primary reasons for making a change to management plan (Attachment 4). It says biological need, safety & overcapitalization—and promised a loan program for crew—alleged needs and goals that were not met:

- Biological Need: TACs (or ACLs) are now declining, and localized depletion is a great possibility.
- Safety: BS crab fishermen still fish in the same storms and for longer periods of time.
- Overcapitalization: Last year my banker (Alaska's biggest statewide bank) told me that the Bering Sea crab fishery was not overcapitalized when they initiated the CR program. Now overcapitalization is actually the result of the free quota giveaway, since the total value of the BSAI Harvest Quota Shares (HQS) is worth approximately $1 billion. Meanwhile, the vessels and gear are worth almost nothing without the privileges of Catch Shares.

A Crew Loan Program was the option chosen by the NPFMC—to excuse the robbery from crewmen. Here are some of the problems with that yet to be funded option:

- While the HQS was distributed 5 years ago, the $3.5 million dollar crew loan program has been delayed since 2005. Also, for crew to buy into a Billion dollar industry, that measly loan program is a promissory joke, one we call "buyback my back"—since those crew quota would have to be procured (mostly under bank financed or vessel owner backed mortgages) from ITQ holders who were already gifted the crew's historical shares.
- There were 2 other crewmember options in the May 2002 Public Review Draft that better adhered to the National Standards (Attachment 5).
- Likewise, the NPFMC was very crafty in changing parts of the original documents so that it read differently than what was in the SFA.

Please keep in mind these points made in early (and current) testimonies to the Council and Secretary of Commerce (SOC) by crab crewmembers and communities:

- The quotas are selling as if property rights, yet these resources are public commons, and international treaties surely disallow grants of dominance to specified corporations in global trade within resource industries by any nation.
- The exorbitant crab quota lease rates offer room for readjustment; and high rents in the realm of 60% to 70% demonstrate the de facto property taking;

- The council's 2002-03 economic analysis was not released in a timely fashion; as the final EIS was released in August 2004—after Congress passed Sen. Stevens' Appropriations rider.
- Analysis of whether or not to do crab and other "rationalizations" was not prepared and sent to the Congress in a timely manner, as required by law;
- The Senate Appropriations Committee usurped jurisdictional authority from the Commerce Committee and violated other proper legislative due process (leading to John McCain's hearings);
- The June 2002 AP minority report predicted most of the negative consequences (e.g. unnecessarily complex regulations; not addressing resource conservation goals; artificially allocating market shares; constituting economic protection of competitors not competition itself; accelerating unstoppable consolidation, and granting excessive power to foreign entities over public resources);
- A five-year price decline has occurred in king crab and opilio crab prices; and no subsequent analysis nor Justice Department antitrust review has been undertaken;
- With no definition of fishermen or harvesters in the MSA to guide allocations, the rights of vessel operators as participants, and their historical investments of human capital, were arbitrarily and capriciously dismissed;
- The 1-2-3 pie concepts are imperfect economic theory without practicable substantiation in the real world, especially since foreign-controlled economic structures and concomitant cross-border profit laundering strategies (transfer pricing abuses) were wholly ignored; and clear legal solutions such as FCMA seller rights and other alternatives were not analyzed;
- Lengthier seasons weaken sellers and have caused increased inefficiencies in plant worker revenues and imposed costs on the fleets for standby time and other factors;
- There has been a lack of promised value-added production in crab, which is also a flaw being demonstrated during the first year of the Rockfish Pilot Program.
- Crews, plant workers and communities have no official say in arbitration, yet suffer losses and costs, whereas the Council's chosen standard of focus on preserving the division of revenues (not rents) between only processors and vessel owners forms a basis for rights to negotiation should, for example, efficiency gains not accrue to the sector creating those productivity/cost gains.

NPFMC & Senator Stevens' Actions Disenfranchise the Crab Crewmen:

In 2002, during the BSAI/CR program development and related motions to identify the "preferred alternative," the Council took certain wrongful steps:

1. The Minutes from the Council's prior meeting in April 2002 were not presented and not approved at the Council level in June.
2. The June Minority Report of the Advisory Panel, outlining the shortcomings of the preferred alternative, was not entered on the Council record, and no copies were made for distribution to the public, before the Council rushed into place its preferred alternative, and ended up leaving the crews rights stranded.
3. The Crab EIS was deliberately withheld, and its release was delayed until 2004, long after the CR preferred alternative was identified, and Senator Stevens pushed CR into law via a Consolidated Appropriations rider. It was too late for the crewmen to review, criticize and change it to reflect historical rights that would have equitably allocated IFQs to all past participants.
4. Changes were made to Ted Stevens' legislative language on the BSAI/CR program to ensure that the preferred alternative leaving crews out became the unique and guiding statute for the MSA. Stevens used a flawed decision making process of industry "regulation negotiation"—and by "industry" he did not mean the communities and crewmen, but rather just the corporations and vessel owners. (See again: Attachment 3)
   a. A small concession of 3% of the IFQs was made to skippers as vessel operators, under quotas with a separate class of delivery rights.
   b. **Not one pound of the IFQs could have been allocated to the LLP holders had the fish ticket recipients not signed their rights over for NOAA to allocate them to the vessel owners.**
5. The "end notes" (see below) show an example of the means by which the Council also reframes and weakens the crew rights argument, by manipulating the wording of the National Resource Council, statutes and National Standards. In short, they said anything to build a record leaving out the crew, while all along making false promises to the crew that in the end we'd be taken care of.

In 2002 and since, whenever crewmembers made efforts to stand up to vessel owners, the owners and their hired-skippers used coercion against crewmembers trying to secure their fair portion of historical shares.

Coercion was used to Disenfranchise the Crab Crewmen:

Coercion of crewmembers is a serious crime, and we hope the Congress would undertake asking law enforcement to investigate this ongoing criminal activity, to prevent stakeholders from being denied a fair process. If effective coercion can happen to the daring crews of "The Deadliest Catch" sector, it can certainly happen to the smaller boats and day-fishermen in other species across the Nation.

- This is not a joke, and we've been coerced since the June 2002 NPFMC meeting in Dutch Harbor, when crab crewmen were actually physically held up to the wall and told by skippers and vessel owners not to testify or they'd lose their crew jobs.
- The public coercion re-started in April 2007 (182nd Plenary Session—NPFMC) when we put our first reallocation proposal on the table for the crewmen. We advised federal law enforcement and NOAA authorities about these strong-arm tactics, after several crew already signed up (December 2007) to give testimony and were intimidated into not speaking on the official record (or at all). To date, we've seen no legal action taken to stop the coercion.

Fishermen work long hard days in raging storms and in unforgiving conditions to bring the sea's bounty to our shores. Yet, due to deliberate Council scheduling tricks, it is during the time we are fishing out at sea when most fisheries policy is drawn up and pushed through federal and state agencies. Again this year, the NPFMC has essential crab items agenda-timed for October, the session we have repeatedly told them is the worst for crab fishermen who are at-sea that month.

- The failure to include crew as stakeholders in due process should be a crime, since we risk our lives every day to provide the first dollar from the products we catch. Just as our labor first creates all capital.

Concluding Remarks:

Again, please institute a 2-3 year moratorium on any further Catch Share programs, and go back and fix Crab Rationalization and similar privatization mistakes.

We ask the U.S. Congress, the Secretary and the Inspector General of Commerce to help address the problems of present Catch Shares programs before one bad fish spoils the whole boat load of American fisheries.

- Before the concept that financial investments—which government has supported by depreciation allowances (recoveries), subsidized loan guarantees and low interest rate programs, and capital construction fund tax breaks—allow for more reframing of the arguments that vessel owners alone should get private rights, active fishermen (who are real participants) should have their real and ongoing investments recognized foremost. And that of their fishery-dependent communities.

The BSAI crab crewmen needed to be established as the "stranded labor" portion of the CR program (i.e. as stakeholders that were not included).

Remember:

> **"Labor is prior to, and independent of capital. Capital is only the fruit of labor, and could never have existed if labor had not first existed. Labor is superior to capital, and deserves the much higher consideration."—Abraham Lincoln**

Thank you for the opportunity to present our problems with a cumbersome and unfair program that did not fulfill its assurances, as the chairman of the NPFMC falsely promised in his letter to Congress on August 5, 2002:

> ***"Rationalization will improve economic conditions substantially, for all sectors of the industry. Community concerns and the need to provide for economic protections for hired crew will be addressed."***—*David Benton, NPFMC Chair (2002)*

End Notes:

Example of NPFMC Manipulating Language to Disenfranchise Crab Crewmen:

Below is an example (from the June 2002 NPFMC meeting in Dutch Harbor) of the changes that were made in order to diminish the role of crewmen's historical participation rights, which was deliberately designed to award "catch share" quotas to the vessel owner entities rather than to participating skippers and crew, in a fair and equitable split.

National Research Council (NRC) Report Recommendations:

> The NRC report "Sharing the Fish" recommends that regional councils "consider including hired skippers and crew in the initial allocation of IFQs where appropriate to the fishery and goals of the specific IFQ program."

> The report concludes that even though crew may invest minor amounts of capital in comparison to vessel owners, crew may have undertaken significant financial and physical risks to participate in a fishery. Crew assume financial risks in fisheries where skippers and crew are paid with crew shares. In addition, crew may assume substantial physical risks in certain fisheries. These risks justify the consideration of crew interests in designing an IFQ program and could justify an initial allocation of shares to skippers and crew.

Alternatively, the report recommends that councils consider developing programs that ensure the availability of QS for crew purchase, such as the block program in the halibut IFQ program, and loan programs that assist skippers and crew in purchasing QS.

Then, in the original document from the SFA 1996, Public Review document of the Bering Sea/Aleutian Islands Crab Rationalization Program from May of 2002, it reads (in highlight) plus other important text below:

1.1.2.5 Sustainable Fisheries Act of 1996

Requirement for the New IFQ Programs {page 8} "

> *(A)* ***establish procedures and requirements for review and revision of the terms of any such program (including any revisions that may be necessary once a national policy with respect to individual fishing quota programs is implemented), and, if appropriate, for the renewal, Reallocation,*** *or re-issuance of individual fishing quotas;*
>
> *(C)* ***provides for a fair and equitable—initial allocation of individual fishing quotas,*** *prevents any person from acquiring an excess share of the individual fishing quotas issued, and consider the allocation of a portion of the annual harvest in the fishery for entry-level fisherman, small vessel owners, and crewmembers who do not qualify for individual fishing quotas.*

3.2.6.2. Stewardship {page 164}

The National Research Council (NRC) report discusses ".Another component of stewardship is who owns the quota. ***Due to the ownership structure of the BSAI crab fisheries, the majority of the quota will be issued to vessel owners who do not fish. Proponents of the initial allocation of skipper/crew shares and owner-on-board provisions advocate that these options would improve stewardship because fishers will have ownership in the resource.***

3.3.2 Initial Allocation of QS (or Cooperative Shares) {page 193}

Paragraphs 1.2 and 1.4 of the list of elements and options define options for the initial allocation of harvesting QS (or cooperative shares). ***The initial allocation is of critical importance to a rationalization program since it is the foundation for the distribution of interests in the resource in the new management regime.***

Here's the NPFMC's version of the NRC report:

National Research Council Report Recommendations.

The NRC report on IFQs, "Sharing the Fish" ***advises that an initial allocation should widely distribute shares to avoid granting excessive windfalls to a few participants in the fishery.*** *Broader initial allocations might be favored because they will distribute benefits more equitably and compensate more individuals as shares become concentrated. In addition, payment for initial allocations (thorough either windfall taxes or auctions) should be considered as a method of distributing the benefits of the resource to the public.* ***Share distributions should consider investments of time*** *and capital in the development of the fishery. Crew exposed to safety risks might also be considered to have invested in a fishery. A broad distribution might consider the distribution of shares to skippers, crews, and processors.*

Catch history is frequently relied on for determining the distribution of shares because it is perceived to be a fair measure of participation. ***Allocation based on catch history, however, can have unintended or onerous consequences.*** 3Reliance on participation in a single fishery can be detrimental to fishers that move between fisheries. These transient fishers might be deprived of an interest in a fishery even though their movement between fisheries may have resulted in a better distribution of effort across fisheries. Catch history can also reward speculative behavior of fishers that enter a fishery in hopes of obtaining an interest in the fishery under a future rationalization program ***and fishers that overexploit stocks to obtain larger initial allocations of shares.*** *Alternatively, a portion of the initial allocation could be distributed equally to all participants or could be based on vessel size.*

In addition to the issues raised in the NRC report, NOAA GC has emphasized that the failure of the halibut and sablefish IFQ program to give suffi-

cient consideration to recent participation was an important issue in the lawsuit filed against that program.

As required by NS #4 paragraph (c) (3) (i):

Definition. An "allocation" or "assignment" of fishing privileges is a ***direct and deliberate distribution of the opportunity to participate in a fishery*** *among identifiable, discrete user groups, or individuals. Any management measure (or lack of measurement) has incidental allocative effects,* ***but only those measures that result in direct distributions of fishing privileges will be judged against the allocation requirements of Standard 4.***

Excessive HQS was distributed to LLP holders in the initial allocation of the CR program, depriving the BSAI crab crewmen of their rights to HQS and to fair negotiation for lay share contracts.

Review NS#4 (c) (3) (iii), avoidance of excessive shares.

An allocation scheme must be designed to deter any person or other entity from acquiring an excessive share of fishing privileges, ***and to avoid creating conditions fostering inordinate control, by buyers or sellers, that would not otherwise exist.***

Due to excessive HQS being allocated to LLP holders, exorbitant lease fees have been extracted off the top of gross revenues and have deprived the vessel operators (crewmen) from receiving fair and equitable compensation from the HQS holders.

Lay Share contracts have never been included as part of the CR program for EDR data or for legal liability of the HQS holders and the vessel owners. NOAA/NMFS may not be responsible for enforcing 46 U.S.C. section 10601 (and § 11107), but it is their job to follow such highly applicable federal code, which was not done in creating the CR program.

Otherwise, it will be the responsibility of the FBI or the courts to sort out this problem.

As stakeholders that were left out of Due Process we ask the U.S. Congress to examine the CR program with a microscope to provide relief for the labor portion of the industry that was damaged not only monetarily, but by long-term losses of jobs, and to the livelihood of being an independent contracted fisherman.

The crewmen that are participating in the crab fisheries presently are facing coercion, due to the threat of losing their jobs if they come forward and voice their written or oral presentation to the Council. This type of action took place at the December 2007 meeting, as crewmen were ready to testify and received phone calls from vessel owners while at the meeting, and chose not to go on the record, or otherwise they would become jobless. Many are furious about their crew compensation being diminished due to high lease fees on QS. This has been put on the record more than once, so why is nothing being done to stop these actions?

We've been talking with a few individuals in the industry (for the last two years) that have advised us that the crew is at fault for not joining the vessel owners to fight against PQ and helping 90/10 being removed or being diminished. After listening to the 154th Plenary Session tapes it's clear the vessel owners were offered only two options at that meeting, either status quo and no quota grab or the three cowpie system that has so overcomplicated the crab fishery and led to restraint of trade.

The present vessel owners that bought into the industry since CR are almost as bad off as the crewmen. They are at the mercy of the QS holders that are charging huge rents for use of their quotas. How can the Council expect the vessel owners and crews to survive on 30-50% of the net revenues after lease fees (high quota rents), all taxes and all expenses? **These vessel owners dare not speak up about almost anything but safety, as they are being threatened (coercion again) by the QS holders or otherwise will have their lease quotas removed.** The post-rationalization vessel owners (those who bought in) would promote the idea of lease fees being reduced to past historical levels of between 30-35% of the net revenues after taxes and trip expenses, if they were able to speak freely.

The QS holders are being threatened by the fisheries processors that if they try to change PQs from 90/10 to a lower rate, the processors will help the crewmen get a reallocation. The QS holders are not willing to allow a reallocation, as they think they would lose quota. They would only be allowed to receive their historical ratio of compensation (as above, 30-35% net) if the skippers, crewmen and vessel owners received their pre-rationalization compensation levels.

The processors are not willing to allow open markets because they would have to pay a fair price or else other processors—competitors paying higher ex-vessel prices—would move into the industry.

Attachment 1

BS/AI CRAB RATIONALIZATION IFQ/ITQ REALLOCATION AMENDMENT PROPOSAL—FOR SKIPPER/CREWMEN COOPERATIVE
North Pacific Fishery Management Council
189th Plenary Session—October 2008
RE: C-2 BSAI CRAB MANAGEMENT

Name of sponsor: Shawn C. Dochtermann
Originally Introduced at the 181st Plenary Session, April 1, 2007
Address: PO Box 3886
Kodiak, AK 99615
Date: September 15, 2008
Telephone:907-486-8777
Email:drdrmann@hotmail.com

Brief Statement of Proposal: (preferably under a separate agenda placeholder)

1. **Reallocation of a percentage of Individual Transferable Quota (ITQs) harvest privilege shares of "CR Crab"—Bering Sea/Aleutian Islands red king crab, opilio, and tanner crab fisheries—to active crab crewmembers; by**
2. **Provision for a single Crewmember's Cooperative for "CR Crab"; with options of multiple Crew coops &/or combined with Regional Fisheries Associations (guidelines needed);**
3. **Retain Open Market for All Crewmember Pooled Quota Shares;**
4. **Require Active Participation & Provide for Crew Contracts.**

Objectives of the Proposal (What is the Problem?):

The problem is an inequitable distribution of CR Crab fishing privileges that resulted in excessive shares being assigned to vessel owners, which granted them inordinate control over fishermen on decks and in the wheelhouses, who are engaged in active fish harvesting.

This was an unbalanced, direct and deliberate distribution of the opportunity to fish to a discrete user group or set of individuals that excluded long-term participants (boots-on-deck fishermen) without any justification in terms of the objectives of the Crab Rationalization FMP.

This failed to preserve the status quo of economic distributions in the crab fisheries, ignored the dependence of present participants (crew) and coastal communities, and failed to fully consider the social and economic consequences (harms) of the scheme (rationalization).

1. **Correct Inequitable Distribution of Harvester Shares under CR Crab FMP; and Restore Historical Crewmembers Compensation Levels.**

Complete failure to recognize deckhands as vessel operators (allocating them 0%), combined with Skipper shares of 3%, falls drastically short of the historical earnings of crewmembers who actually harvest crab. A germane legal argument is that an inequitable "takings" occurred as vessel owners or mere investors confiscated those rights, and upwards of 70% of ex-vessel fish ticket earnings as high quota rents consequential to implementation of the CR Crab FMP, which occurred without prior public production of Economic Data Report reports and proper analysis.

Reallocation of crab quotas would provide crewmen "fair and equitable" quotas recognizing that their small businesses were needlessly harmed (even foreclosed) by inequitable allocations under Crab Rationalization, and allow for future career opportunities in these crab fisheries.

2. **Crewmember Representation in Binding Arbitration & Price Negotiation.**

Add crewmember representatives to the binding arbitration tables to protect the financial interests of the skippers and crewmembers.

3. **Assure Experienced Crews are Available and Rewarded in CR Crab Fisheries.**

Assure crewmember jobs in the future have earnings that are commensurate to their personal investments and recognize the dangers of active participation in CR Crab fisheries.

Needs and Justifications for Council Action:

The drastic reduction of jobs and compensation, especially with the massive consolidation of the rationalized crab fisheries, demands this issue to be dealt with, without further delay: at best, through a separate placeholder (e.g. FMP amend-

ment). No provision was made for crewmen to initially receive allocated quota for BS/AI crab, representing their historical ratio of compensation, which violates:

Section 600.325 National Standard #4 Allocations [applicable excerpts; plus c(3)(i) "(iii) etc.]

If it becomes necessary to allocate or assign fishing privileges among various U.S. fishermen, such allocations shall be:

[1]. ***Fair and equitable to all such fishermen; [and]***

[3]. ***Carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.***

Discussion: Regarding capitalism, Adam Smith first said that labor alone is the real standard by which the value of all commodities can be compared; but modified it for the claims of "the landlord and the capitalist". Similarly, Abraham Lincoln noted, "Labor is prior to, and independent of capital. **Capital is only the fruit of labor, and could never have existed if labor had not first existed.** Labor is superior to capital, and deserves the much higher consideration."

In determining the allocations under CR Crab regime(s):

- ITQ/IFQ privileges were not rationally connected to achievement of Optimum Yield—especially considering that it is through the crewmembers earnings that maximum net economic benefits flow widely to communities.
- The motives for making particular allocations were not justified in terms of objectives—i.e. to increase safety and provide for value-added benefits.
- The FMP did not restrain income shifts from crewmembers to rent-seeking owners, nor deter acquisition of excessive shares.
- The FMP did not prevent exorbitant rents—up to 70% quota lease fees.

The historical ratio of compensation for crewmembers as active participants (while oddly recognizing a small ratio of rights for other vessel operators, in the 3% skipper shares) was abandoned as the value of the "human capital" was taken—without permission or negotiation by past stakeholders. In legal and economic terms, "lay share" rights were taken and the crew now has to produce a "surplus value" for others that represents the degree of private exploitation (of crew labor) by a "high rent seeking" distant, non-participating capitalist: i.e. by a "sealord"—often investing in quota on a loan-financed basis only.

Likewise, there's a new post-rationalization class of vessel owners (some of whom may also hold a small portion of ITQs by way of the vessel's history) that are paying high rent rates to such "sealords"—greatly depressing the crewmembers' net earnings, relative to historical ratios of compensation. This is especially true because such "sealord" rents come off the top of gross vessel earnings—prior to direct costs (fuel, bait, groceries, fish taxes and related settlement expenses of harvesting crab) and indirect vessel operating costs (hull insurance, repairs and maintenance, etc.).

All of these changes have exacerbated the degree to which allocations were neither "fair and equitable" nor preventative of "excessive shares."

Foreseeable Impacts of the Proposal (Who wins, who losses?):

Who Wins: By having quota rights Crewmembers (deckhands, engineers and skippers) gain ability for substantial employment opportunities and are more likely to achieve fair earnings. This enhances the interests of new entrants, as well. Crew will benefit from increased bargaining power for ex vessel compensation with both cooperatives and processors. Fishery dependent communities will benefit from increased (restored) crew incomes. Federal and state taxes will be higher, in total, as crewmembers invariably pay taxes whereas corporations often shelter them.

Are there alternative solutions?

- Revoke crab rationalization and return to Open Access with a 100 pot limit for king crab and 250 for opilio. This is the option that would best have modified Status Quo, which when coupled with buyback would have helped maintain crew jobs and avoid excessive consolidation onto fewer boats.
- Cap rents for vessel owners to a much reduced percentage, more like 35%, rather than the current exorbitant rates of between 70%-50% being taken by boat owners/IFQ holders. This would be coupled with giving the crewmembers their historical 35%-to-40% of total fish value.
  - An option is to add "Vessel Caps" regarding consolidation of ITQs per vessel.

Supportive Data and Other Information:

NOAA is remiss in providing Crewmembers with useful information from the EDRs. The open, public provision of EDR data is not only overdue (it is now one-year late), but essential and legally warranted prior to the Council making any further decisions on ITQ shares.

For this data to now be regularly characterized as either inadequate or non-useful to the decision-making process seriously calls into question the initial allocation of shares for all BSAI crab.

The EDR data apparently does not reflect the federal legal requirement of crew contracts, and cross-verification with crew shares submitted in EDRs. NOAA must strengthen compliance with the requirement in 46 U.S.C. § 10601 that seamen be given pre-trip written agreements. The lack of such required data, ensuring appropriate analysis and reports for crewmembers seeking restoration of historical rights, is an additional deficiency in the decision-making process to date.

Altogether, these are serious deficiencies of the regional council in meeting the recommendations of GAO 06-289: Core Principles and a Strategic Approach on Stakeholder Participation.

Discussion: Previous to IFQ shares being allocated to all entities, vessel owners, or corporations, they were each required to submit 3 years (2002-04) of crab data to NMFS in order to receive initial crab quota shares. NMFS and/or related agencies could release this data in summary to substantiate the overall participation levels (i.e. to establish the estimated 35% to 40% historical crew rights).

The present BS/AI crab rationalization requires that all quota shares holders furnish NMFS with extensive crew and other data. Gunnar Knapp of ISER conducted a study for the City of Kodiak and it contained preliminary analysis that puts job losses in the BSAI crab industry at 892 persons who held jobs prior to rationalization. (An estimated 1,500 persons previously held crab jobs before rationalization.) And a draft of an upcoming NOAA crew report indicates a range of lost crew jobs of between 1,026 and 1,674.

Final Note in Protest: Critical discussions affecting crab crewmembers were placed in an inappropriate committee, and the Council's relevant matters have been knowingly scheduled during the crab fishing season when crewmembers cannot be present to represent their stakeholder interests. The weight of these concerns and deficiencies necessitates a separate placeholder for a Crab Crewmembers FMP Amendment.

Shawn C. Dochtermann

Attachment 2

Oceans Policy Task Force Hearing August 21, 2009
Anchorage, Alaska

RE: Adjacent but Alienated by Catch Shares
Public Comment: Crewman's Association

Madam Chair, Dr. Jane Lubchenco, Interior Deputy Secretary Hayes, USCG Admiral Allen, & Deputy Assistant Zichal.

My name is Shawn Dochtermann from Kodiak, Alaska. I have commercial fished in Alaskan waters for 31 years and I am here today representing the Crewman's Association. Alaska's Bering Sea crab fisheries are an example of the failure of a Catch Share program. Over 1,000 crewmen lost their jobs due to privatization, while many of them had 20 to 25 years experience in the industry. Consolidation continues and hundreds more are losing their crab incomes.

Crewmembers are also losing jobs as other management programs, such as the Rockfish Pilot Program, get politically privatized without adequate scientific justification. Total allowable catches are already in place. This public larceny hides under "the theoretical joys of privatization" to benefit non-participating investors. A recent study by the University of British Columbia indicates that small-scale fisheries are more efficient and better at meeting socio-economic needs than large scale fisheries, as the residents of local communities are provided with fishing related jobs.

When the Bering Sea crab catch share system was implemented, crewmembers were denied a historical participation share of $400 million of IFQs—while roughly $1 billion of catcher rights (IFQs) were given to vessel owners. Many of these vessel owners are large corporations. Now high lease fees paid to quota-holding 'Sealords' come right off the top of our vessel trip settlements—costing independent contracting crewmen another $35-40 million per year compared to before privatization.

It does not take much effort to realize our fisheries suffer under a Resource Curse condition, and that the North Pacific Fishery Management Council is a perfect example of Regulatory Capture in action. Once again, it is the Labor component who

is disenfranchised and alienated, and driven into indentured servitude under what are in fact sharecropping programs. NOAA is letting this happen in America!

Vessel owner group representatives have committed perjuries on the federal council record and crewmembers have been coerced into not giving public testimonies for fear of losing their fishing jobs. NOAA has failed to prosecute these criminally false testimonies and coercions. When will these perjuries be investigated?

The NPFMC and NOAA have also ignored 46 U.S.C. section 10601 and other federal law requiring fairly contracted "lay shares" for crew. Individual crewmen who used to net 5% to 6% are now lucky to net 1% to 2% of the adjusted gross revenues from crab fishing trips. Some quota holders presently scalp off upwards of 75% of gross revenues while an entire crab crew and skipper collectively receive only 12-15%. Crews and skippers historically received 35-40% of the gross revenues.

Without required active participation, without caps on ownership, without limits on consolidation, and without adherence to the national standards of a "fair and equitable" distribution of rights, Catch Shares will clearly lead to more socio-economic harms.

Contrary to what others may tell you, when examined from the point of view of fishermen, communities and regional economics, Alaska's rationalization schemes do not serve as good examples of fisheries management and national policy. An independent review by the U.S. Department of Justice Antitrust Division and the Government Accountability Office of the restraints of trade and ownership structures is overdue.

We have grave concern about OCS Gas and Oil Exploration and the proposed Pebble Mine, as both of these resource extractions could easily damage the renewable resources of the Bering Sea and Bristol Bay with only one disaster. Therefore, we urge this panel to do the right thing and never let nonrenewable resource extraction take a front seat to the precious renewable seafood of Alaska.

Respectfully,

Shawn C. Dochtermann
Crewman's Association—Secretary/Executive Director
PO Box 866; Kodiak, AK 99615

Model of a settlement sheet for Bering Sea red king crab pre then post rationalization

PRE RATZ

$1,000,000 VALUE OF CRAB CAUGHT
($30,000)MINUS 3% RAW FISH TAX
$970,000

$50,000 FUEL EXPENSE minus
$12,000 BAIT EXPENSE minus
$908,000 ADJUSTED GROSS

4 CREW AT 6% (+1 FOR ENGINEER)=25%
SKIPPER AT 14%
CREW & SKIPPER 39%

Crewman	Skipper/Captain
$908,000 @ 6%= $54,480	$908,000 @14%=$127,000
minus FOOD $980	minus FOOD $980
Crewman pay $53,500 (5.3%)	Skipper pay $126,200 (12.6%)

X 3
$160,500+63,580=$224,080----------$224,080

$908G @ 7 $63,560
Minus FOOD $980
Engineer $62,580 (6.2%)

PAID TO
Crew & Skipper $349,280 (35%) Approx

$908,000 GROSS NET
$349,280 CREW & SKIPPER

$558,720 OWNER EARNED ADJUSTED GROSS

$125,000 VESSEL MAINTENANCE **>
$40,000 VESSEL INSURANCE **> minus
$35,000 GEAR/LOSS/EQUIPMENT **>
$358,720 VESSEL OWNER/LLP HOLDER APPROXIMATELY (35/36%) PRE-RATZ

POST RATZ

$1,000,000 VALUE OF CRAB
@75% LEASE FEE @70%
$750,000 to Catch Share Quota Holder paid first! $700,000

Raw Fish tax 2%, Buy Back tax 3%, RAM tax (IFQ) 3% is
8% of the $1 Million GROSS = $80,000 Total Taxes
*(lowest estimate as Gunner Knapp lists 10.4%)

$750,000	IFQ HOLDER	LEASE FEE (EXORBITANT!)	$700,000	IFQ HOLDER
$80,000		TOTAL TAXES	$80,000	
$830,000		LEASE & TAXES	$780,000	
$170,000		REMAINDER	$220,000	
minus $50,000		FUEL	minus $50,000	
$12,000M		BAIT	2 $12,000	
$108,000			$158,000	
$27,000 (2.7%)		minus Vessel's Share 25% of net	$39,500 (3.9%)	
$81,000 (8.1%)		Crew & Skipper's Gross Pay	$118,500 (11.8%)	
skipper $29,077 (2.9%)			skipper $42,538 (4.25%)	
$980		FOOD	$980	
$28,097 (2.81%)			$41,558 (4.15%)	
crew $51,923 (4+1/24) shares		crew net gross	$75,961 (4+1/24) shares	
$12,846 (1.28%)		each crewman	$18,231 (1.82%)	
$980		FOOD	$980	
$11,866 (1.18%)		NET EARNINGS	$17,251 (1.72%)	
	$13,385	Engineer	$21,26	
75% lease	$980	FOOD	$980	70% lease
	$12,405 (1.24%)	ENGINEER NET EARNINGS	$20,289 (2.02%)	

* Gunner Knapp, *Kodiak "BSAI" crab rationalization preliminary report May 2006*

**> Post Ratz -Vessel owner must pay insurance, maintenance and gear loss/added equipment from the 25% of the net after leases, taxes and fuel & bait deducted. While Harvest Quota Share holders have not expenses if they do not own a vessel.

[A letter submitted for the record by Kathy Hansen, Executive Director, Southeast Alaska Fishermen's Alliance, Juneau, Alaska, follows:]

Southeast Alaska Fishermen's Alliance
9369 North Douglas Highway
Juneau, AK 99801
Phone 907-586-6652
Fax 907-523-1168
Website: http://www.seafa.org
E-mail: seafa@gci.net

March 15, 2010

House Committee on Natural Resources
Subcommittee on Insular Affairs, Oceans and Wildlife
Representative Madeleine Z. Bordallo, Chairwoman
1324 Longworth Building
Washington, DC 20515

RE: Hearing on "Catch Shares as a Management Option: Criteria for Ensuring Success"

Dear Honorable Madeleine Bordallo and Committee Members,

Today, March 16th you are holding a hearing on catch shares as a management option for fisheries and the criteria for ensuring success. Catch Shares have been a positive and successful management tool for fisheries in Alaska and in other

places around the world. For example, since catch shares have been implemented in the Alaska halibut and sablefish fisheries, these fisheries have not gone over the commercial allowable catch. The Canadian groundfish catch share program has significantly reduced their by-catch issues in the fishery. Catch share programs when designed correctly with good stock assessment and catch accounting systems protect the resource from overexploitation and ensure the long-term sustainability of the resource. There are lessons to be learned from every catch share program that has been implemented.

You have asked for advice on criteria for ensuring the success of a catch share program. First and foremost for the long term success of the program you must have good, viable and on-going stock assessment program in place and you must have good catch accounting that accurate reflects all removals of that resource whether it is the target species, bycatch, or a recreational sport harvest.

In the development phase of the program, there are issues that need to be looked at and considered, these include whether you wish to maintain an owner-operator on board clauses, excessive consolidation, community protections, consideration of crew, and consideration of other users of the resource whether you provide an allocation or decide to allow another sector to grow which might undermine the catch shares in the future (i.e. Alaska Halibut and the guided sport sector).

With catch share programs, there will be some consolidation over time but that is partly because by the time a catch share program is considered the industry has overcapitalized and become uneconomical for all industry players to continue.

When Alaska's catch share programs have been developed there has been large segments of the industry against the idea but after time even those that didn't get an initial allocation mostly agree that the program has stabilized the industry, increased price per pound due to market changes—processing smaller high quality quantities at a time compared to derby style all the fish at once poor quality product, better safety record since you don't have to fish in bad weather and many other advantages.

Southeast Alaska Fishermen's Alliance is a multi-gear/multi-species membership based commercial fishing organization representing our members involved in the salmon, crab, shrimp and longline fisheries of Southeast Alaska and federal halibut and sablefish quota share programs.

Please feel free to contact our office for more information about catch share programs.

Sincerely,

Kathy Hansen
Executive Director

[A statement submitted for the record by The Honorable Walter B. Jones, a Representative in Congress from the State of North Carolina, follows:]

Statement of The Honorable Walter B. Jones, a Representative in Congress from the State of North Carolina

Madame Chair, I want to thank you and the Ranking Member for holding this hearing on what is a very important topic of concern for not only the fishermen that I have the privilege to represent, but for watermen around the country as well.

The use of catch shares as a management tool is very controversial. As you know, catch share programs give shares of the total allowable catch in a given fishery to particular fishermen or groups. I can tell you that North Carolina fishermen vehemently oppose catch share programs as nothing more than thinly veiled attempts to get fishermen to leave the business and to destroy fishing communities. These sentiments were validated by a 2009 assessment of catch share programs and the resulting industry consolidation performed by Dr. Julia Olson of the National Oceanic and Atmospheric Administration's (NOAA) Northeast Fisheries Science Center. Dr. Olson's report found:

"The primary social impacts that have been documented in empirical cases involving consolidation range from employment loss, decreased income, decreased quality of life, changing relations of production, structural disadvantages to smaller vessels and firms, dependency and debt patronage, concentration of capital and market power, inequitable gains, regulatory stickiness, reduced stewardship, decreased community stability, loss of cultural values, and so on."

Given these problems, I was very troubled that the Administration's Fiscal Year 2011 Budget Request for NOAA included proposals to cut funding for fisheries science—which we all acknowledge is necessary for adequate management of our fisheries—in order to add $36.6 million to expand implementation of catch share programs into new fisheries across the country. The last thing the federal government should be doing in these economic times is spending millions of taxpayer dollars to expand catch share programs that will put even more Americans out of work.

To the extent that solid science demonstrates that catch reductions in any given fishery are necessary, there are far better options than catch shares for achieving those reductions. In my opinion, expanding catch shares is the wrong policy for the United States and I would urge the Subcommittee to move legislation that would suspend expansion of these programs.

Thank you for again for holding this hearing and for the opportunity to offer my thoughts on this matter.

[A statement submitted for the record by Linda Kozak, Consultant, Crab Group of Independent Harvesters, Kodiak, Alaska, follows:]

Statement submitted for the record by Linda Kozak, Consultant, Crab Group of Independent Harvesters, Kodiak, Alaska

Madam Chair and members of the subcommittee, I would like to thank you for the opportunity to submit written testimony on the policy of catch shares. My name is Linda Kozak and I serve as a consultant for the Crab Group of Independent Harvesters, whose membership includes Bering Sea and Aleutian Islands crab fishermen who hold crab quota share. I also work closely with fishermen who are quota share holders in the halibut and sablefish IFQ catch share program. My past experience on catch shares includes representing fishermen during the creation and implementation of both the halibut/sablefish IFQ and crab rationalization programs. I was a charter member of the IFQ Implementation Team for halibut/sablefish, as well as serving on North Pacific Fishery Management Council and Alaska Board of Fisheries committees for crab rationalization. I was a member of the West Coast panel for the National Academy of Sciences study on individual fishing quotas, which resulted in the publication in 1999 of "Sharing the Fish". Additionally, I participated in several workshops and panels including the 2002 National Marine Fisheries Service "Individual Fishing Quota and Community Programs". My background also includes past ownership in a halibut and sablefish quota brokerage with offices in Alaska and Washington where for three years the majority of all quota share sales occurred.

My comments will reflect primarily on the Bering Sea and Aleutian Islands (BSAI) crab rationalization program, which is acknowledged to be the most complex catch share program in the nation. With allocations of harvesting and processing quota providing for fishing cooperatives and binding arbitration, as well as regional landing requirements, the adaptation into the program has been at times difficult. As the program is nearing its fifth year since implementation, it is good to take a look back and review the crab catch share program.

The Bering Sea and Aleutian Islands crab catch share program did not evolve overnight. The process began in 1992 when at the request of industry, the North Pacific Fishery Management Council approved a moratorium on new vessel entry into the fishery, and it became effective in 1995. The Council took further action in 1995 to approve a license limitation system and this was put into place in 2000.

Both the moratorium and LLP system were necessary due to the excessive number of vessels racing to catch crab in the fisheries of the Bering Sea and Aleutian Islands. During this time, there was a downturn in crab stocks for the major fisheries and with the crab fisheries operating under strict catch limits, there was little flexibility for the vessel owners other than to race even harder. This race for crab contributed to several tragic accidents which resulted in loss of life in this deadliest fishery.

It became clear to harvesters, processors and communities that a different management structure was needed and in 1999, at the request of industry, the North Pacific Council formed the first BSAI Crab Rationalization Committee. As this committee began to meet, one of the foremost concerns was that of over-capitalization in the crab fleet. As a result of an industry initiative, the Consolidated Appropriations Act of 2001 established a license and vessel buyback program for the Bering Sea and Aleutian Islands crab fisheries in order to reduce fishing capacity. This

buyback program was implemented in 2004 and resulted in the buyback of 25 crab licenses and vessels, which are prohibited from ever participating in any commercial fishery in the United States.

The legislation providing for the Buyback Program also required the North Pacific Fishery Management Council to begin analyzing options for rationalizing the BSAI crab fisheries and to report back to Congress on the results of that study. This was supported by a majority of the crab harvesting sector because the Buyback Program only partially addressed the over-capitalization problem. Many vessel owners were on the verge of bankruptcy and a graceful exit was needed.

After many committee and Council meetings, at the June 2002 meeting, the North Pacific Council voted on a report to send to Congress. This report recommended harvester catch quotas with the ability to form cooperatives in order to become more efficient. Additional elements included the controversial 90/10 processing share component along with regional landing requirements as a form of community protection.

In January of 2004, Congress amended the Magnuson-Stevens Act through the Consolidated Appropriations Act of 2004 requiring the Secretary of Commerce to approve the BSAI crab rationalization program by January 1, 2005. Embedded in this law, was a requirement for the North Pacific Council to conduct a three-year and five-year comprehensive review of the crab program. Within a month of the Congressional action, the North Pacific Council voted unanimously to prepare an analysis specifically on the issue of the 90/10 processing share component and deliver that analysis 18 months after the program began. This began a series of Council discussions on the issue of 90/10.

Crab rationalization has been an issue on the North Pacific Council agenda at many Council meetings since February 2004. As with the halibut/sablefish IFQ program, the complexities of the crab catch share program have required a substantial amount of discussion and consideration for modification. Issues dealing with processing shares, emergency relief from regional landing requirements, cooperative leasing, crew compensation, and binding arbitration have been addressed and continue to be addressed by the Council.

The Congressionally mandated five-year review of the crab rationalization program is scheduled for review by the North Pacific Council in October 2010. This review will cover a wide range of topics requested by the Council and is expected to be very detailed in scope. It is expected that the Council will consider further changes to the program at that time.

The crab rationalization program was not perfect when implemented. There are still areas which will be addressed and we expect to continue working in the foreseeable future to make this program better. However, even with the concerns expressed by the Crab Group of Independent Harvesters as well as other groups or communities, the catch share program is a distinct improvement over the destructive practices of too many vessels racing for too few crab. We are working to make the program better, but strongly believe that BSAI crab catch shares have achieved many of the goals addressed during the development of the crab rationalization program.

The members of the Crab Group of Independent Harvesters agree with several of those testifying at the hearing on March 16th that the design of a catch share program is most important. By attempting to create a program that will accomplish specific goals and have a clear vision of where the program and participants should be in five, ten or even 20 years, the catch share program will be better designed and able to achieve those goals. However, regardless of how much attention or effort is put into trying to make the program as perfect as possible, you will find that some unexpected consequence will occur and adjustments to the program need to be considered.

I would briefly like to address some of the positive elements of the BSAI crab catch share program that we believe have occurred in the last four seasons.

Conservation of the Resource and Habitat

- The BSAI crab fisheries have operated under science-based catch limits for 30 years. However, prior to the catch share program in the race for crab, on some occasions, agency managers did not react quickly enough to close the fishery before catch limits were exceeded. Under the catch share program, those harvest limits have not been exceeded even a single time.
- Crab harvesters have utilized biodegradable cotton thread in escape panels since the 1970's and this eliminated the possibility of crab pots "ghost fishing". Since the race for crab ended with catch shares, many vessels have added larger mesh to their pots, which allow for female and sub-legal crab to escape long before the pot is pulled for harvest. This reduction in handling is very beneficial for the future of the resource.

- Under the catch share program and a result of the elimination in the race for crab, vessel owners have the ability to allow their pots to soak longer to maximize catch rates of adult male crab. The catch per pot rate has more than doubled in certain fisheries.
- While the BSAI onboard fisheries observer program has been in place since 1988, all vessels began using a vessel monitoring system (VMS) under the catch share program. This ensures that vessels do not fish in areas that are closed.
- Fewer pots are used in the crab fisheries under the catch share program and the environmental footprint as been reduced by half, while still prosecuting the fishery throughout the entire range of adults. This eliminates concerns about localized depletion, while experiencing a minimal impact on the marine habitat.
- The carbon footprint has also been reduced by half since the implementation of the catch share program. This has been possible due to the cooperative fishing efforts by the fleet and less fuel being burned.

Safety at Sea

- Sadly, 26 BSAI crab vessels sank from 1991-2005, resulting in 77 deaths—50 times the overall U.S. worker fatality rate—earning the fleet the title, "deadliest job in America". Since the crab catch share program was implemented in the fall of 2005, not a single vessel has been lost to the sea.
- One of the benefits under the cooperative fishing provision in the catch share program is that those vessel owners with less sea-worthy vessels have not been forced to send their boats out to fish, while still having the ability to be part of a fishery that many have participated in for decades.
- Another safety benefit is that with the race for crab something of the past, vessel owners no longer feel the need to stack too much gear on deck, which led to instability, particularly in icing conditions. The need to have as much gear in the water as possible in order to maximize the catch has been eliminated. With every vessel harvesting a pre-determined amount of the quota, the fishery is no longer frenzied and reason prevails.

Reducing Fleet Over-Capacity

- A major concern for fishery managers and the crab industry when developing the crab catch share program was that of fleet over-capitalization. For years many vessel owners were at the edge of losing their business after the downturn of the crab stocks due to ecosystem shifts. The Council's Problem Statement clearly identified that crab catching capacity far exceeded available resources.
- While the crab license and vessel Buyback Program helped provide a graceful exit for 25 vessel owners, others who were not selected to be part of that program were left to wait for rationalization. Many of those vessel owners continued to operate in a marginal manner.
- The cooperatives, which were designed in the BSAI crab rationalization program, provide for a buffer and allow for fewer vessels to harvest the crab, especially in these years of lower harvest limits. As harvest limits increase, the number of vessels in the fishery will also increase. There are approximately 50 vessels, many of whom are currently working on science and research charters, or acting as fish tenders for processing companies in other fisheries, that plan to re-enter the fishery as crab stocks continue to improve.
- Many quota share holders who had marginal operations prior to the crab catch share program being implemented are now able to participate in the fishery through the vessel cooperative program, and have been able to realize some benefit.

Skipper and Crew Compensation

- The crab catch share program initially allocated 3% to eligible crab crew members and many of those are continuing to expand their quota holdings. The incremental investment in quota share allows a crew member to enter the fishery in a cost-effective way over time.
- Prior to catch shares, the investment of a boat and license were cost prohibitive, but now that crew can buy into the fishery over time, this benefits their progression into the fishery. Recent appropriations by Congress provide for $8 million in loan funds for crab crew members to acquire quota. We have encouraged National Marine Fisheries Service to quickly implement the regulations allowing them to begin utilizing that loan program.
- The North Pacific Council's analysis found that prior to the catch share program being implemented, most crew members were not making enough money in the crab fisheries to provide for them and their families throughout the year and they had to supplement their income with other jobs. With catch shares,

the average crew share has risen dramatically and now there are more full time crab crew members than before the catch share program was implemented.
- While there are a few instances of vessel owners paying poorly under the catch share program, the majority of the fleet is well paid and the crew members are satisfied that they are receiving fair and equitable compensation.
- As the crab stocks increase and more vessels return to the fishery, crew member jobs will be created and these jobs will be stable and provide more certainty than in the years before rationalization.

Community Development Program

- A major element of the crab catch share program was to provide a royalty of 10% of the annual allocation of each crab fishery's catch limit to six regional community organizations representing 65 Western Alaskan communities, as well as the Aleutian Islands community of Adak. The purpose is to assist these communities in long-term economic development.
- Each CDQ organization has partnered with crab fishermen for the harvest of the crab resource.
- CDQ organizations have added to their crab investments by purchasing additional crab catch shares at a value estimated to be over $230 million.
- Several CDQ communities have invested in processing facilities and processing quota.

Crab Catch Shares and Alaskan Communities

- Communities adjacent to the Bering Sea and Aleutian Island waters are important to the success of the crab catch share program, as well as communities in other areas of Alaska.
- Crab catch shares are held by Alaskan residents in 16 communities from Nome to Petersburg.
- Crab landings occur primarily in St. Paul, Adak, Dutch Harbor/Unalaska, Akutan, King Cove, and Kodiak.
- Dutch Harbor has the largest number of landings and most of the Bristol Bay red king crab processing effort, while nearly 50% of the Bering Sea snow crab is processed at St. Paul Island, one of the most remote communities on earth.
- In the Aleutian and Pribilof regions, where nearly all of the crab is delivered to a shoreside facility, seafood processing jobs account for 65% of all jobs.
- Crab fishery taxes are an important source of local revenues. These include fisheries business taxes, landing taxes, property taxes, and sales taxes.
- Community benefits include purchases of fuel and groceries, vessel maintenance and repair, gear fabrication and repair, and a variety of support services.
- Some crab vessel owners who traditionally took their vessels to Washington or Oregon during the off-season, now are keeping their boats in Alaskan ports, contributing further to the Alaskan coastal community economy.

The Bering Sea and Aleutian Islands crab catch share program is not perfect, as stated earlier. However, the good things far outweigh the negative and the members of the Crab Group of Independent Harvesters are committed to keep working to make the program better for the resource, catch share participants, coastal communities, and the owner of the resource—the people of the United States.

[A statement submitted for the record by James A. Odlin, Commercial Fisherman, Portland, Maine, follows:]

Statement submitted for the record by James A. Odlin, Commercial Fisherman, Portland, Maine

Thank you for the opportunity to provide my personal perspective on catch share management.

I have been a commercial fisherman vested in the New England groundfish fishery for over 35 years and have served on the New England Fishery Management Council for the last seven years. I have experienced derby fishing under hard quotas, days at sea management, and will soon experience catch share management as the New England groundfish fishery transitions to catch share management in May 2010.

From 2001 to 2007 the number of active vessels in the New England groundfish fishery has shrunk from nearly 1100 to 574, and in Massachusetts, from which the largest percentage of vessels has historically hailed, the number of active vessels declined from 629 to 300. In Maine, less than 75 boats remain in the fishery and groundfish landings have plummeted from 30 million pounds annually to 6 million

pounds. The current system of day's at sea clearly has not protected the community or the industry, it has promoted huge discards of dead fish and left millions of dollars of fish in the ocean that could have been sustainably caught providing jobs.

In the past I have been an opponent of catch shares, but I have now come to the conclusion that, under the current mandates of the Magnuson-Stevens Act, and facing the alternative of only 20 allowable days to fish, that catch shares management must be tried in New England groundfish.

However, if catch share management of New England groundfish is to succeed, we need more frequent stock assessments and appropriate monitoring of the fishery.

A buyout is crucial to lessening the negative impacts of Amendment 16 to the New England groundfish plan. A buyout would remove excess capacity, give those who wish to leave the industry a dignified way to exit, and allow those who remain to increase allocations at minimum cost. Buyouts have preceded the implementation of catch shares in the North Pacific crab fishery and the west coast groundfish fishery, and have provided increased profitability for fishing businesses and stability for fishing communities.

Congress must provide the funding necessary for a buyout, or advance an industry-funded buyout proposal.

Congress must remove the referendum requirement for implementation of Limited Access Privilege Programs (LAPPs) in New England. Without the ability to move to LAPPs, the industry is burdened with high and unnecessary management costs of "sectors".

Congress must amend the Magnuson-Stevens Act in a way that clearly articulates the flexibility necessary for fisheries managers to restore fisheries resources while preserving fishing communities. In particular, Congress must rescind the ridged 10 year rebuilding requirement.

[A statement submitted for the record by Mark Phillips, F/V Illusion, Greenport, New York, follows:]

Statement submitted for the record by Mark S Phillips, F/V illusion, Greenport, New York

To the House Subcommittee on Insular Affairs, Oceans and Wildlife,

I would like these comments added to the hearing on Catch Shares on March 16, 2010.

The comments by new NMFS Eric Schwaab that most fishermen are in favor of catch shares is a distortion of the facts. Nothing could be farther from the truth, and I know of no fisherman in NY who is for this. He is taking the fact that most fishermen joined a "sector" as an indication that we wanted catch shares.

The fact is, NMFS gave us a choice between joining a "sector" or staying in the common pool, but neither was any good. Shooting yourself in the head or stabbing yourself in the heart are choices too, but the outcome is still the same—you are dead.

The problems with catch shares are:

1) NMFS' data is not ready to implement catch shares and cannot be fixed until 2011 or later. This is NMFS' own admission.
2) Catch shares have never been done on a multi-species format before. This is an experiment with unprecedented consequences if it fails.
3) NMFS touts science as the fix all for overfishing, yet they want to gut cooperative research to fund catch shares. Cooperative research's science has shown NMFS's science is less than accurate.
4) Calling the catch shares program "sectors" is NMFS' way to try to get around calling them ITQs (what they really are),which need a 2/3 referendum by all affected participants if they are to be implemented, as stated in Magnuson-Stevens Act.
5) We have one ITQ system on the east coast already it has not been very good for anyone but the one man that owns 70 + percent of the surf clam/ocean quahog resource. We also have a multi state catch share system in fluke, and because of bad data NY recreational and commercial fishermen have fared terribly. Even though NMFS admits the data was faulty, it has never been corrected.
6) Catch shares are an economic tool not a conservation tool.

I am writing to request an East Coast hearing on catch shares by both the House Subcommittee on Insular Affairs, Oceans and Wildlife, and the Senate Commerce

Committee. Also, that these hearings call for at least a 1 year freeze on this program, as has happened on the West Coast.

With the problems inside NMFS concerning Dale Jones' shredding of documents while under investigation by Inspector General Todd Zinser, fishermen feel that NMFS service should get its own house in order before it rams an unwanted program down our throats that will put many of us (50-70 percent) out of business, along with the infrastructure that supports us.

Again, I know of no fisherman in NY that is for this catch shares program.

Thank you.

[A statement submitted for the record by Edward Poulsen, Executive Director, Inter-Cooperative Exchange Policy Advocacy Committee, follows:]

Statement submitted for the record by Edward Poulsen, Executive Director, Inter-Cooperative Exchange Policy Advocacy Committee, Shoreline, Washington

Madam Chairwoman and Members of the Subcommittee, I appreciate the opportunity to submit written testimony regarding catch share policy. My name is Edward Poulsen and I am Executive Director of the Inter-Cooperative Exchange Policy Advocacy Committee (ICEPAC), which represents approximately 70% of the Bering Sea crab harvesters. All members of ICEPAC hold quota share as part of the Bering Sea/Aleutian Islands (BSAI) crab rationalization program in the North Pacific Ocean. My comments will be limited to our experiences with this catch share program.

It is widely acknowledged that the BSAI crab catch share program is one of the most complicated catch share programs in the United States. This is precisely because of the broad goals of the program as well as issues and stakeholders that had to be balanced during the design and implementation of the crab catch share program. An important point about the crab catch share program is that it was a "bottom up" effort supported by industry including representatives from vessel owners, crewmembers, processors and affected communities. We are also fortunate to have strong leadership and staff from the North Pacific Fishery Management Council, Alaska Region National Marine Fisheries Service, and Alaska Department of Fish and Game which helped industry move forward to address the goals and identify issues while providing an open forum for all stakeholders.

The three main goals of the program were to improve safety, address resource conservation issues, and improve the financial stability of the industry. It has been successful on all three fronts.

First, the old derby fishery created tremendous stress in a dangerous environment. Crab fishing was the most dangerous occupation in the United States. The derby days are now gone and so is the incentive to push the envelope. We are pleased there have been no sinkings under the crab catch share program. The fatality rate has been reduced to 0.2 per year under catch shares, from 5.1 fatalities per year during derby fisheries (1991-2005).

Second, conservation of the resource has improved in many ways. With more fishing time allowed, increased soak time allows the crab pots to screen small crab out while on the ocean floor thereby reducing bycatch. Additional fishing efficiencies include better sorting tables, overboard chutes, and better gear that all have helped to reduce bycatch mortality. We expect this trend to continue in the future. The crab quota share holders, now direct stewards of the resource, have formed a successful research association, along with crab processors and crab dependent communities, funded collaboratively by the crab industry and NMFS to better understand our resource.

Third, the financial footing of the fleet has also been stabilized through the crab catch share program. 2005, the last year of crab fishing prior to the crab catch share program, resulted in a grand total of just 7 days of fishing time for the Bering Sea crab fleet to catch opilio and red king crab combined. Nearly everyone was losing money. Vessel owners couldn't pay their vendors let alone a mortgage. Owners were forced to defer repair and maintenance simply because there was not enough money to go around, further exacerbating the safety situation. Crewmembers could not support themselves or their families on crab incomes alone. With the crab catch shares program, the industry has financially stabilized even though we continue to fish at very conservative levels. On average, vessels are profitable and crew now make more per day than prior to the catch share program. The bottom line is that a finan-

cial crisis was afflicting the industry and everyone knew the way out was massive bankruptcies, a government bailout, or a catch share program. We chose a catch share program, following a modest, industry-funded vessel retirement program.

Issues identified during the design and implementation process included: consolidation, community protection, price negotiation, stakeholder allocations and management fees. During the recent catch share hearings, consolidation and community protection concerns were brought up several times. During the design of the crab catch share program, both of these topics received considerable discussion as well. To prevent consolidation in ownership of quota share (QS), both harvesters and processors have ownership caps to prevent excessive consolidation. On the vessel level though, caps were intentionally not implemented so that efficiency gains and consolidation could be achieved. The crab harvesting sector was massively overcapitalized. In addition, it was necessary to allow flexibility in the contraction and expansion of capacity, in response to environmentally-induced changes in the crab Total Allowable Catch (TAC) and the legal requirement to achieve Optimum Yield on a continuing basis. We would expect that our snow crab rebuilding plan, which includes very conservative management measures, plus recent favorable environmental factors, will result in higher crab TACs in the future and more crab vessels fishing. If this does not happen though, the fleet has the flexibility to consolidate to a level where profitability, conservation, and safety can be maintained.

Community protection measures are also very important in the design of the crab catch share program. Upon implementation of the crab catch share program, the Community Development Quota Communities (CDQs) were provided an additional 2.5% of the entire TAC resulting in a total of 10% directly allocated to them. In addition, a regional landing requirement was put in place to ensure the historical dependence of the communities of St. Paul and St. George was maintained. Processing quota was tied to communities in a way that provided a "Right of First Refusal" (ROFR) to allow the processing quota and the associated crab landings to remain where they had been historically. So far, there has been little disruption to the historical crab landings to each community based on the years the Council set as the baseline for determining historical participation.

Price negotiation became a very serious issue as part of the crab catch share program mainly because processing quota (PQ) was part of the design of the crab catch share program. The concern was that if harvesting quota had to be delivered against processing quota, how would there ever be fair market competition? Again, through a bottom up approach, industry came up with an arbitration system that has proven to work very well to maintain a historical distribution of revenue between harvesters and processors.

As with any catch share program, stakeholder allocations are one of the biggest issues to tackle. The crab catch share program created a "3 pie allocation" to harvesters and crew, processors, and communities. The crab catch share program was the first catch share program in the United States to initially allocate a portion of the quota shares to qualified crew, in this case 3% to skippers who met certain participation requirements. The remaining 97% of the quota share was allocated to owners of harvesters based on specific qualifying years. Approximately 90% of harvester quota share must be delivered against processing quota which was awarded to processors based on their historical participation during specified years, while the remaining 10% could be delivered to any processor. Communities are not granted quota per se, but the processing quota share is linked to communities through ROFRs and therefore provides reasonable assurance that historical dependence will be maintained. This 3-pie system has allowed the protection of all three sectors' historic dependence on the fisheries.

Finally, the crab catch share program resulted in some increased management and enforcement costs for both the National Marine Fisheries Service and the Alaska Department of Fish and Game. Industry agreed to help defray these costs with an annual fee deducted on each delivery. Both harvesters and processors are assessed a combined maximum of 3% of the landed value of the crab fisheries.

In conclusion, I have presented goals and issues that the stakeholders and relevant agencies wrestled with in devising and implementing the BSAI crab catch share program. This discussion is not meant to push our model on any other fishery; we know each fishery is a unique situation necessitating a unique solution. This testimony is simply meant to provide a background of where we have been and why we are grateful for the catch share program that we have.

[A statement submitted for the record by David E. Preble, Narragansett, Rhode Island; Rhode Island Representative, New England Fishery Management Council, follows:]

Statement submitted for the record by David E. Preble, Narragansett, Rhode Island; Rhode Island Representative, New England Fishery Management Council (NEFMC), U.S. Commissioner to the Northwest Atlantic Fisheries Organization (NAFO)

A prominent politician once told me that of all the issues he dealt with, the most difficult and contentious was marine fisheries, and nowhere is that more true than in New England. New England, more than any other region, is steeped in its traditions and its myths. John Kennedy recognized this when he said, "The great enemy of the truth is very often not the lie—deliberate, contrived and dishonest—but the myth—persistent, persuasive and unrealistic." We must look past our myths to find the truth, to ferret out the facts. For the truth is that in fisheries management today's problems will only be solved by adhering to the facts, not by misreading the past.

The facts are really rather straightforward. From early colonial times, the ocean-based portion of New England's economy was mostly based upon free harvest open to all. But a free and open-access fishery could only work when human population was smaller and harvest technology more primitive. By the second half of the 20th century neither was still true, and open harvest had become over-harvest—the "tragedy of the commons" had come to pass for the fish. Commercially important species had become the buffalo and passenger pigeon of a century earlier, and local fishing economies began a steady decline. It had, in the end, become necessary to manage these public resources through the agencies of government. As modern fishery management began, New Englanders clung to the "free and open" myth, long after all other natural resource industries had abandoned such thinking. To keep management as free and open as possible they tried to control fishing effort, step by unsuccessful step, finally by limiting the number of days a boat could fish and the amount that could be caught per day. The approach originally seemed fair to all, but "days at sea" (DAS) with "daily trip limits" multiplied average daily operating costs, required the discarding of fish caught above the daily limit, closed recovered stocks to protect weaker ones, and lead to micromanagement of fishing businesses by government agencies.

The DAS system is economically inefficient and has provided no incentive for harvesters to protect the resource. Furthermore, New England's fishery management and stakeholder groups have become rife with resentment and conflict. Fish stock population sizes and the food web are now severely unbalanced, and the New England groundfishery yields less than 20 percent of its economic potential while fishermen go broke. DAS backed up with daily trip limits has failed miserably because it is both static and rests upon false assumptions about fish and about fishermen. These are the facts.

One solution to this mess has been found in several other U.S. and foreign fisheries, and is really rather simple in concept. As in other, successful land-based resource extraction industries, limited harvest rights to the resource must be assigned prior to the actual harvest. In fisheries, this concept is called "catch-share management." Under catch shares, fishermen or groups of fishermen, known as "sectors," are assigned a percentage of the total quota for each species, usually based upon their prior catch history. They are then free to harvest their shares in whatever way maximizes business efficiency and overall profit.

Here are some more facts. The NEFMC has spent several years designing a sector program to replace DAS and to place management back in the hands of fishermen. My first assignment on the Council was to join the Sector Management Committee, chaired by the late John Nelson, long before anyone around here had ever heard the name "Lubchenco" or the term "catch shares". It was no rush job and all of the meetings were completely open. We knew it was a huge step and we wanted to get it right. There were several public hearings and the full Council deliberated the minutest details over many public meetings. Contrary to what has been written and implied, there were no back room deals with enviros or politicians or mysterious big-money financiers. If anyone seriously thinks some big city money types are going to move in and turn a quick profit in the New England groundfishery I sure wouldn't want him managing my retirement portfolio. In fact, the entire New England groundfishery currently has a much lower annual gross income than the drugstores alone do in just my one small state. Dr. Lubchenco did come to the NEFMC after her appointment last spring to give us a pep talk, but the sector plan was al-

ready mostly completed and neither she, nor any environmental NGO's, nor the current administration had anything at all to do with it.

Here is another fact. The claim that we are "privatizing a public resource" is ridiculous, since we already privatized access to the New England groundfishery years ago with limited entry in Amendment 5. If you don't have a permit you can't fish, and permits are both limited in number and expensive. "Privatization" by limited access is not the same thing as "property rights". In fact, no action by the NEFMC or NMFS can create property rights to fish before they are harvested because it is against the law. The Magnuson Act, Sec 303A, is very clear on that point. It totally prohibits property rights to fish before they are harvested.

Management of the New England groundfishery has been a third of a century of failure. The sector system of catch shares could also fail, but if we do nothing we are certain to fail. Catch shares could fail if we continue to manage single species instead of the entire twenty-stock complex. They could fail if we continue to have a plethora of multiple fishery management plans for overlapping fisheries that use different management methods and often don't even start their management year on the same day! Doing a separate EIS for each of several simultaneous actions in nearly a dozen different plans that cover the same piece of ocean is just plain nuts! Catch share management by sectors is certain to have some unforeseen and unintended consequences that will require adjustment, and if we can't make that process more efficient sectors could fail, not because the idea itself is wrong but because of our own inefficiency.

The sector management plan in Amendment 16 was designed in an open process by the New England Fishery Management Council in a good-faith effort to bring back a devastated regional industry that most of us have been a part of and that all of us care about. It is time to implement the plan. It is time to finally move forward.

[A letter submitted for the record by Britton Shackelford, President, North Carolina Watermen United, follows:]

March 29, 2010

Madeleine Bordallo, Chairwoman
Subcommittee on Insular Affairs, Oceans & Wildlife

Chairwoman Bordallo,

Enclosed is a copy of the letter the North Carolina Watermen United sent to North Carolina's Governor Perdue to request state support for No Catch Shares and for support for the U.S. Congressional Senate Bill 1255 and House Resolution 1584—Flexibility in Rebuilding American Fisheries Act of 2009. The letter is dated November 25, 2009.

Today, March 29, 2010, we are still opposed to Catch Shares and are working for the passage of the Flexibility in Rebuilding American Fisheries Act. We believe that flexibility would allow the time for accurate Stock Assessments which could be used for making Fishery decisions based on the Best Science, not the Best Available, which is often incomplete and inaccurate.

With Good Science, we would have no need for Catch Shares which has proven to limit catches regardless of the Stock numbers and to put fishermen out of their jobs—in a time when it is important to keep jobs. Fishermen are not asking for hand-outs or "Stimulus Money;" they are only asking to be allowed to continue fishing.

We ask for support from you and your Committee to oppose Catch Shares.

Yours truly,

Britton Shackelford
President
North Carolina Watermen United

Enclosure

November 25, 2009

Dear Governor Perdue,

The North Carolina Watermen United is respectfully requesting the North Carolina Governor's Office and our North Carolina Congressional Delegation to join other East Coast Atlantic states, along with the Gulf States, to see the inherent

flaws in Catch Shares and Limited Access fishery programs which denies the traditional users—commercial harvesters, charter/headboat operators, recreational fishermen and seafood consumers—access to our fishery resources.

Your Office and the North Carolina U.S. Congressional Delegation have already received letters from the North Carolina Watermen United and others asking for your support of H.R. 1584 (S. 1255)—[Flexibility in Rebuilding American Fisheries Act of 2009] which will allow flexibility within the time frame for rebuilding fish stocks.

History has borne out that Catch Shares and Limited Access programs do not allow the most fundamental responsibility of the Magnuson-Stevens Fishery Conservation and Management Act—to maximize the net economic value from the use of a public resource.

The North Carolina Watermen United look forward to working with you and a coalition of other Atlantic coastal states so that we can keep our fishery resources available for all its consumers while maintaining healthy stocks.

Yours truly

Britton Shackelford
President
North Carolina Watermen United
info@doghousesportfishing.com

cc: Tate Johnson, Director, Eastern Governor's Office
North Carolina Congressional Delegation
State Senator Marc Basnight
State Representative Tim Spear
Dare County Board of Commissioners
Dare County Commission for Working Watermen

[A statement submitted for the record by The Honorable Simeon Swetzof, Jr., Mayor, City of Saint Paul Island, Alaska, follows:]

Statement submitted for the record by The Honorable Simeon Swetzof, Jr., Mayor, City of Saint Paul Island, Alaska

Madam Chair, members of the committee, my name is Simeon Swetzof, Jr., and I am the Mayor of the City of Saint Paul Island, Alaska. I am also a commercial halibut fisherman, which is how I make my living, and a subsistence hunter. I appreciate having the opportunity to offer comments to the Subcommittee on our experiences with catch shares as a Bering Sea community. This is an extremely important issue to the community of Saint Paul Island, as it is thanks to the catch share program known as the Bering Sea Aleutian Island Crab Rationalization Program that Saint Paul continues to survive today.

Saint Paul is a unique community located in the middle of the Bering Sea whose history is intricately tied to the history of Alaska. Saint Paul's 450 residents are mostly Aleut Natives and it's known as the largest Aleut community in the world. Since time immemorial, the Aleut people have depended on the bounty of the Bering Sea for their survival and have lived in harmony with its abundant resources. Pelts of northern fur seals were harvested on Saint Paul and Saint George islands (known as the Pribilof Islands) from the days of Russian colonizers. This operation was so profitable that it spurred U.S. interest in acquiring Alaska in 1867. For over a century, Saint Paul was not allowed to develop a commercial fishing industry due to the exclusive federal management of the fur seal harvest. The fur seal harvest was phased out by the federal government in the 1980s, and the community of Saint Paul was forced to scramble for alternative means to survive. Since oil and gas exploration were not an option at the time the logical choice was to develop a fisheries-based economy.

I. Saint Paul's Dependence on the Bering Sea Snow Crab Fishery

Because most of the Bering Sea fisheries were already capitalized by this time, one of the few fisheries that Saint Paul could participate in was the snow crab fishery. The federal, state, and local governments, as well as the private sector poured tens of millions of dollars into Saint Paul Island to develop a harbor and the infrastructure necessary to become a viable port for the Bering Sea crab fishing industry. The infrastructure necessary to support the development of a fisheries-based economy included a fuel farm, a power plant, water storage facilities, a landfill, and other utility upgrades. Saint Paul became one of the most highly indebted communities on a per capita basis in Alaska.

These investments, however, paid off. With its proximity to the fishing grounds and the investments in infrastructure, Saint Paul thrived as the port of choice in the derby-style snow crab fishery of the late 1980s and 90's. Saint Paul-based processors came to process close to 40% of the Bering Sea's snow crab. Processors based on neighboring Saint George processed another 10%, and most of the remainder was processed in Unalaska/Dutch Harbor. Together these three communities processed over 90% of all the Bering Sea's snow crab. In the cases of Saint Paul and Saint George, these two communities are almost entirely dependent on crab processing, unlike other communities with a diversified fisheries and economic base.

II. The Collapse of the Snow Crab Fishery

In the year 2000, the snow crab stocks suffered a collapse of about 85% from levels close to 200 million pounds to 25 million pounds. This collapse meant that from one year to the next, 85% of Saint Paul's economy vanished. Jobs were lost, processing facilities were shuttered up, and longtime residents, particularly youth, left the island. The community of Saint Paul faced economic, demographic, and cultural extinction. In recognition of the situation, the Secretary of Commerce declared a commercial fishery failure in the Bering Sea snow crab fishery due to the resource disaster. The Secretary declared Saint Paul an affected fishing community under the Magnuson-Stevens Fishery Conservation and Management Act which entitled Saint Paul and other affected communities to federal assistance. In addition, a vessel buyback program was put into place to help ease the dislocation that a collapsed fishery would necessarily cause on the industry.

III. Efforts to Save the Community

In order to save the community, community leaders worked together with a coalition of harvesters, processors, and other key crab dependent communities such as Unalaska and Saint George to develop a management program that would protect the investments that all sectors had made in the snow crab fishery. Through these efforts and the wise leadership of the Alaska Congressional Delegation and the State of Alaska, the Bering Sea Crab Rationalization Program was born. Understanding the clear benefits of the program to the various stakeholders, the NPFMC voted unanimously to adopt the program in 2002. Congress approved the program in January of 2004.

IV. Community Protections in the Bering Sea Snow Crab Catch Share Program

From a community perspective, the Crab Rationalization Program includes a number of protections that ensure the continued participation of communities in the snow crab fishery. In a collapsed commercial fishery, consolidation of the crab fishing fleet and other crab-related infrastructure was inevitable. This would have potentially led to the demise of some crab-dependent communities. The program also sought to protect the considerable federal, state, and municipal investments made on Saint Paul that proved invaluable in developing a commercially successful crab fishery in the Bering Sea.

One of the unique adaptations of the program is the concept of regionalization. This concept is intricately intertwined with the protections granted to other sectors. Harvesters, processors, and crewmembers are issued shares in recognition of their investments and stake in the fishery. A percentage of these shares are then subject to regional delivery requirements that are based on communities' historic participation in the fishery. Saint Paul is located in the so-called Northern Region. As a northern region community, Saint Paul therefore, is assured of a continued flow of required deliveries to processors that are based on the island.

The other main protection extended to crab-dependent communities under the Bering Sea Crab Rationalization Program are rights of first refusal (ROFR) on certain transfers of processor quota shares (PQS) derived from processing in a particular community. A ROFR is triggered in favor of an eligible community if the current PQS holder engages in a transaction that will remove the PQS from its community of origin. In this manner, a community has the opportunity to acquire the PQS involved in the potential transaction, preventing its removal and the associated economic activities from migrating elsewhere.

One of the main weaknesses of ROFRs in this program is that communities may not have the financial wherewithal to exercise a ROFR in a multimillion dollar transaction. The North Pacific Fishery Management Council (NPFMC) is considering modifications that will strengthen a community's ability to respond to a ROFR. In addition, with the support of the NPFMC, the five primary crab-dependent communities in the program have reached out to the U.S. Congress and the Administration to develop a loan program that would enable communities to more effectively exercise their ROFRs. Such a loan program would be consistent with the

Administration's efforts to increase community participation in the nation's commercial fisheries. Notwithstanding these weaknesses, ROFRs are still a valuable tool for communities and they strengthen the sense that the residents of a fishing community have about their stake in the surrounding fisheries.

V. Implications for Saint Paul's Broader Economy

The activities of the processing facilities and the crab fleet on Saint Paul Island, which are made possible by the Crab Rationalization Program, generate local jobs and demand for local goods and services, and air transportation. Local enterprises are partnered up with the processing companies as landlords and in other business ventures. In addition, between 300 and 400 non-residents work at the shore-based processing facility during the crab season thereby contributing greatly to local economic demand. The city government for its part receives fisheries business tax and sales tax revenues related to the sale of fuel and other services that are key to the municipal budget, continued infrastructure investments in the community, and the salaries of local employees. There is no question that Saint Paul has benefitted greatly from the program, even though the community's revenues are still at 85% of what they were in 1999.

The local halibut fishery in which local fishermen such as me engage in also depends indirectly on crab processing. Without the levels of crab deliveries and processing guaranteed by regionalization, the processors would have closed their facilities a long time ago. This would have left local fishermen with no place to deliver halibut for processing and packing, as halibut fishing by itself is insufficient to generate the revenue necessary to keep a processing operation viable on Saint Paul. The sixteen active Saint Paul halibut fishermen are the primary family-owned small business operations based on the island. Each fisherman employs between three to six people including crewmembers, baiters, and babysitters. Their donations of subsistence halibut to the elderly and other disadvantaged residents is an important source of sustenance for many on Saint Paul. Their disappearance, therefore, would wipe out the main small business activity on the island and constitute a severe loss to many residents.

In addition, without crab processing, the community would be unable to attract investment in the infrastructure and other upgrades necessary to diversify into other commercially valuable species such as pollock and cod, which have potential to be processed on Saint Paul, and to survive in the long term.

Today, the snow crab stock levels continue to be low in relation to the levels witnessed in the 1990s. The total allowable catch for this past season was set at about 48 million pounds. As such Saint Paul continues to face economic difficulties. However, by ensuring deliveries of crab to Saint Paul, the Bering Sea Crab Rationalization Program has allowed the community to survive. The program has also provided Saint Paul with the opportunity to continue diversification efforts into other fisheries. And, finally it has allowed the community to continue to hope for a future on this unique island.

The City of Saint Paul Island thinks that there are valuable lessons to be shared with other fishing communities in our successful experience with a catch share program. Thank you for this opportunity to offer comments to the Subcommittee on our experiences with catch shares in the Bering Sea.

[A statement submitted for the record by Stephen Taufen, Groundswell Fisheries Movement, Kodiak, Alaska, follows:]

Statement submitted for the record by Stephen Taufen, Groundswell Fisheries Movement, Kodiak, Alaska

Dear Chairwoman Madeleine Z. Bordallo and Subcommittee members:

Congress should call for a three-year moratorium that firmly stands down the Secretary of Commerce's ability to approve Dedicated Access Privilege (DAP) programs ("Catch Share" allocations) until more is known about their actual effects. Revisions in the Magnuson-Stevens Act are needed to preserve Constitutional due process, equality (Equal Protection Clause), economic sovereignty and other rights.

I'm Stephen Taufen, an Alaska fish industry insider who blew the whistle on the illicit accounting practices of processing corporations who—acting as "resource vultures"—use product laundering to control the means of production, product mixes, and move profits across national borders. These tax avoidance tactics and revenue shifting strategies (abusive Transfer Pricing) gravely harm our Nation.

> A 'transfer price' is the price charged by one company to a related company whenever they allocate income and expenses among themselves. The bottom

line is whether or not the U.S. (host nation) company properly reflects income attributable to its operations in the U.S., or whether its foreign parent is using illicit accounting and pricing strategies to avoid higher effective U.S. taxes—and to transfer profits offshore and jobs to home and foreign nations. Refer to: U.S. Internal Revenue Code section 482 Transfer Pricing, and related code.

Allocation of fishery quota rights to transnational firms grants them "plenary power" over our fisheries economy, creating job losses and negative shocks to economic multiplier benefits that belong in the USA.

The conversion of the public's common resource privileges to catch shares for fish vessel owners can also foster fleet cooperative agreements with such processors in a way that supports price-fixing, rewards certain competitors instead of competition itself, and establishes restraints of trade. In Alaska, all of this has occurred through the species-by-species march of rationalization regimes: pollock, crab, and rockfish.

In effect, all of these privatization regimes are coercive monopolies—in violation of market theory and tenets of competition—that only governments have the power to wickedly form. "***Once commodified, fishing rights are alienable***."—Courtney Carothers, "Rationalized Out"

For 18 years, I've cooperated with federal law enforcement agencies in uprooting these harms and to aid the removal of Ted Stevens (R-AK) from the U.S. Senate. Only with this corrupt senator gone is it now possible for Congress to take back its powers over our nation's fisheries laws and assist fishermen in correcting the flaws of the Magnuson-Stevens Act. Your renewed efforts are greatly appreciated.

Directed Access Privilege (DAP) "catch shares" programs—especially those "privatizing regimes" that establish "tradable" (asset commoditized) fishery allocations—have the following negative consequences:

1. DAPs threaten economic sovereignty.
   a. Home and insular territories are negatively affected re rights of U.S. citizens for reciprocity in the conduct of trade and indigenous peoples' rights to self-determination.
2. DAPs resulted in a Resource Curse in Alaska—"the Paradox of Plenty" can also occur elsewhere.
   a. A few strong players link with corrupt politicians to secure high rents for themselves, while destructing the development of a wider economic middle class.
3. DAPs have violated WTO treaty rights and NAFTA/CAFTA trade agreements.
   a. In Alaska, Pollock and crab (and soon the rockfish) processor rights largely flow to Foreign-controlled Corporations (FCCs) who have been granted corporate resource acquisition, food manufacturing and distribution rights, in perpetuity: no longer available to other nations' firms.
   b. A WTO challenge to this exclusivity—allowed only to certain foreign-owned multinational enterprises—would likely be upheld. The USA could face WTO sanctions, imposed on other products or economic segments.
4. DAPs lead to directive and control by non-participants outside fishery dependent coastal regions.
   a. Using market and financial powers superior to fishermen and coastal communities, DAPs allow a combination of FCCs, large food conglomerates (e.g. WalMart and other hypermarts), and investor class (hedge fund and mutual fund groups), as well as environmental non-government organizations (ENGOs) to gain control in perpetuity over U.S. fishing quotas to secure cheap sources of high volume supply at the expense of our fishery dependent communities and economy.
5. DAPs in Alaska have allowed a Closed-Class of Processors to avoid Value-added production.
   a. USA jobs have been lost as the increased market powers granted FCCs who received processor quotas and linkage rights to supplies have failed to generate the promised increases in value-added production in our host nation, exacerbating deficits in the net national balance of trade in fisheries. Coercive monopolies control the means of production and determine markets.
   b. This goes hand-in-hand with the illicit purposes of creating and operating "hollow subsidiaries" in our host nation, as value-added failures lower U.S. side revenues and revenues on the seller (fisherman) level, too. American consumer choices are subjugated to corporate paradigms.
6. DAPs foster Global Tax Evasion and Restraints of Trade via FCCs' Hollow Corporations.

a. Using abusive (illegal) accounting practices as part of global strategies to evade U.S. taxes, in violation of Internal Revenue Code § 482 Transfer Pricing and related regulations, FCCs who operate "hollow subsidiaries" within the USA (host nation) manipulate operating profit. Again, this allows a "closed-class of large processors" to practice restraints of trade and horizontally fix prices against U.S. sellers (fishermen) on the ex-vessel (seller) level.
   i. The Seattle IRS-CID and International divisions can advise Congress on the harms to the Treasury, and discuss their limited enforcement and audit efforts to date, and estimated shortfalls to the net U.S. balance of trade. But it is important to note that tax recoveries (low settlement compromises) do not recover the net-of-tax majority of profits product laundered or correct the multiplier benefits lost.
b. A proportionally low percentage of the full value of fish products is paid out on the seller side (ex-vessel). This places great risk on the Nation in cases where a fishery might collapse and the social and economic costs then must provided for by government assistance and bankruptcies. The UN-FAO and World Bank recognize the increasing trend to lower supplier segment ratios as similar threats to governments around the globe.

7. DAPs have caused Regulatory Capture of Regional Fishery Management Councils.
   a. Councils become so dominated by corporate special interests that the historical rights of active participants—such as Alaska's crab and groundfish crewmember—are unable to be recognized in the process of allocation amendments, options and elements.
8. DAPs have abrogated Crewmembers' maritime law "Lay Share" contract rights, as exorbitant Lease fees are extracted by quota Sealords. In legal terms, this is unjust enrichment. It ignores the lifetime boots-on-deck investments of crewmembers, which is equally important to the amortized (recovered) financial expenditures and government subsidized vessel procurements. Future opportunities to work one's way up to the wheelhouse and to eventual vessel ownership end once privatization giveaways begin.

"Labor is prior to, and independent of, capital. Capital is only the fruit of labor, and could never have existed if labor had not first existed. Labor is superior to capital, and deserves the much higher consideration."*—Abraham Lincoln*

Interference by quota Sealords who extract exorbitant leases (high rents) off-the-top before doing normal Trip Settlements results in third-party exploitation and contradicts contract bargaining rights of skippers and crew. In Alaska, the Council "Crab Ratz" privatization process proceeded without proper consideration of one of the most applicable U.S. laws, 46 U.S.C. § 10601 (and § 11107) on Lay Share rights for crews contracted to fish on vessels over 20 gross tons. The upcoming Gulf of Alaska Rockfish Rationalization regime contains plans to similarly ignore the 30% to 40% historical rights of crewmen.

i. Section 10601 states, in relevant part:
   1. Before proceeding on a voyage, the owner, charterer, or managing operator, or a representative thereof, including the master or individual in charge, of a fishing vessel, fish processing vessel, or fish tender vessel shall make a fishing agreement in writing with each seaman employed on board if the vessel is at least 20 gross tons and on a voyage from a port in the United States.
   2. The agreement shall—(1) state the period of effectiveness of the agreement; (2) include the terms of any wage, share, or other compensation arrangement peculiar to the fishery in which the vessel will be engaged during the period of the agreement; and (3) include other agreed terms.

ii. 46 U.S.C. Section 11107 states, in support of § 10601 that
   1. An engagement of a seaman contrary to a law of the United States is void. If the engagement is void, the seaman can recover "the highest rate of wages at the port from which the seaman was engaged or the amount [of] agreed [wages]...at the time of engagement, whichever is higher."

b. Coercion of crewmembers who attempted to give public comment also occurred by their vessel owners and skippers during NPFMC sessions.
   i. The FBI and NOAA-OLE were asked to investigate this coercion (see Addendum A for an article on the problem, and a link to part of the actual evidence of vote-rigging etc.).
   ii. The Crewmembers Association has been long awaiting a reply from past NOAA Administrator James Balsiger about what the Inspector General's office is doing.
c. Hundreds of millions of dollars are extracted in high rents by quota Leases, across a collection of major species—and Congress should first quantify these economic extractions (exorbitant rents) and the role of bankers (seeking interest income) before proceeding on future DAPs.
   i. This is an inherent requirement to guarantee that DAPs do not become modern "letters of marquee and reprisal" (privateer grants) or act in the Insular territories as if "Deeds of Economic Maritime Cession" to foreign interests (a non-USA Thalassocracy—regime of the sea).

Ex-Senator Stevens regularly used propaganda such as criticizing factory trawlers as foreign-owned (by Norwegians, who had already converted to American ownership) while ignoring his legislative shifting of rights to FCCs (from Japan and Korea) in the ill-named American Fisheries Act (Pollock privatization).

However, Stevens' hypocrisy was regularly exposed by disingenuous but responsibly sounding statements on the Senate podium that his legislative acts then failed to uphold; a primary example being:

> ***"I'm worried about the IFQ's from the point of view of having another piece of paper that must be purchased by an entrant to the fishery, to the point where only the corporations or the very wealthy can become real participants in the fishery."****—Senator Ted Stevens*

However, speaking such a paramount truth is only as good as the legislation that actually backs it up.

Congress should ask these serious questions before initiating more DAPs:

> "**If we could not prevent Alaska's major ports from becoming economic branches of foreign nations,** stop the Transfer Pricing abuses bleeding off billions of dollars per year and prevent the Resource Curse and Regulatory Capture of the NPFMC, **then how can Congress justify further 'Catch Share' regimes elsewhere in the nation and its Insular regions?"**
>
> "**If quota Sealords can extract high rents of up to 70% or more right off the top of ex-vessel revenues** (the seller segment cutoff)—a 'kleptocracy' transferring hundreds of millions of dollars annually away from regional fishing economies—**then do DAP initiating arguments of 'overcapitalization' and pending bankruptcy hold any water as driving reasons;** or are they merely dishonest rationales to convert (through quota giveaways) privileges to use public commonwealth to create private property rights that only benefit a few select carpetbaggers?"

SOLUTIONS:

- A three-year moratorium on developing or implementing further "catch share" programs.
- Independent research and analysis, including economic Impact studies, on all existing DAPs.
- Scientific and economic studies on the relative efficiencies and consumer benefits (traceability, quality) between small-scale and industrial (large-scale) fishing and processing operations.
- Treasury, Justice Department and Federal Trade Commission reviews of tax, antitrust and restraint of trade harms, as well as effects of Regulatory Capture and Resource Curse problems.
- Quantification of Abusive Transfer Pricing losses, resulting deficits in net national balance of trade.
- Quantification of losses due to Resource Curse "high rents" extraction by quota sealords.
- Assess States Rights and the coordinating compliances required to ensure regional economies do not fall prey to national policies that unjustly shift revenues, taxes and profits from states.
- Legislative debate and changes to MSA to define the parameters for economic management, and ensure all applicable laws (e.g. Lay Share statutes) are part of due process.

- Legislative changes to ensure stakeholder due process (GAO 06-0289 recommendations) and guidelines for scientific and legally justified Problem Statements and National Standard reviews before DAP amendments proceed.
- Increased protection through new legislation on "prohibited acts" to prevent undue foreign influence, and to strengthen prosecution of abusive profit transfers and avoid tax losses.

The above solutions and clarifications and legislative corrections should occur before ending the stand down (moratorium) on developing and implementing new Directed Access Privilege programs. Until then, allowable catch limits, bycatch mitigation measures, and other traditional fishery management tools can be used to better manage national fisheries.

> Bear in mind, as Robert F. Kennedy, Jr. of the Natural Resources Defense Council reminded us, "**trespassing on common property—is a form of subsidy that ought to end.**" And as Peter Barnes, author of "Capitalism 3.0" states, "...**it's possible to *propertize* a natural inheritance without privatizing it**... [as] Privatization goes further and assigns property to corporate owners....[for] to whom are they accountable for commons-based performance?... **The basic idea is to turn pieces of the commons into common property rather than corporate property."**

I appreciate your efforts in learning more about the real truths and complexities of "Catch Share" privatization regimes as implemented to date in the Alaskan region. Improving "economic efficiency" from a limited bundle of resources to benefit of consumers and maintain coastal communities is far superior to wrongfully "reframing" needs of the Commons as "productive efficiencies" for corporate players hell-bent on solely maximizing profits.

Rationalization schemes have been around for over 120 years as means of corporate takeovers of resources. One definition of "rationalization" is, "the cognitive process of making something seem consistent or based on reason." The truth lies in that definition, as DAPs only seem to be rational, when in effect they only convert and selectively "ration" ownership of the Public Commonweal to specific private entities. This disenfranchisement of living persons in no way serves the actual participants and the fishery dependent communities they live in.

In closing,

> "***Earth has resources for everyone's needs, but not for everyone's greed."*** *—attributed to Mahatma Ghandi*

Sincerely,
Stephen R. Taufen, founder of the Groundswell Fisheries Movement

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Addendum: Crab Rationalization "Damage Control" Conspiracy article with link to evidence file.

Must read: "Enclosing the Fisheries: People, Places, and Power" by Marie E. Lowe and Courtney Carothers, American Fisheries Society Symposium 68,—2008; 223 pgs.; ISBN 978-1-934874-05-09.

U.S. Government Accountability Office report GAO 06-0289, February 2006; "FISHERIES MANAGEMENT: Core Principles and a Strategic Approach Would Enhance Stakeholder Participation in Developing Quota-Based Programs"; http://www.gao.gov/cgi-bin/getrpt?GAO-06-289 [See also: GAO GGD-95-101 & GGD-99-39.]

Re ATP, see: Stephen Taufen's public comment to U.S. Commission on Ocean Policy, Seattle, WA, June 2002; which includes two papers, "The WTO & Fisheries: An Issue of 'Accountability and Transparency'—A Case of Global Production and Transfer Pricing Strategies versus Citizen-Taxpayer Rights" (1999 WTO Seattle; web published by the Institute of Agriculture and Trade Policy), and "Transfer Pricing Affects Fish Catch and Sales Prices" (published 1995 in the "AIFMA Leader"); copy available on the Web at: http://oceancommission.gov/publicomment/northwest comments/taufen__comment.pdf

Addendum: Evidence of ongoing plot against Crewmembers released for first time.

Crab Rationalization "Damage Control" Conspiracy is a Reality

Anchorage, AK—December 11, 2008 (revised)—Disenfranchised crab crewmembers have sought since 2004 to restore the historical share of the individual transferable quotas (ITQs) that were taken from them in the Bering Sea and Aleutian Islands crab fisheries.

At the North Pacific Fisheries Management Council (NPFMC) meeting here this weekend, crewmembers will try again to get a separate placeholder on the agenda—a Crew Reallocation Amendment to the Fisheries Management Plan (FMP) for Crab Rationalization (CR).

National standards support that it is a "fair and equitable" goal to reallocate as much as $400 million of the initial $1.1 billion worth of Individual Transferable Quotas (ITQs) to all "vessel operators"—i.e. skippers and crew. Yet the Council persists in steering things towards violating federal Fisheries Acts that clearly establish no compensation needs to be made to existing ITQ holders, instead of taking the reallocation amendment course. Apparently, there is a reason why.

The evidence attachment (see locator below for CrabConspiracy.pdf) surfaced in August of 2006, and speaks for itself. Crewmembers are obviously the target of this deliberate "damage control" plan that outlined how to continue defrauding them of permanent rights to access crab.

Crab crewmembers should calmly remember that a tide must reach its lowest point before it begins to advance. Now the prudent option for crew is to channel justifiable anger into joining the Bering Sea Crab Crewmen's Cooperative—to obtain their historical rights back, and ensure Lay Share laws are followed.

The Conspiracy in 3 Nutshells:

In short, three key elements were proposed to keep crewmembers at bay forever, and others were added when needed to keep any damage under uncompromising control.

The first element was to combine two insurmountable hurdles of (1) allowing no motion for reconsideration or reallocation; and if that were to fail, then (2) to hold six council votes in opposition, in order to reject reconsideration. Inherent to such subjugation was that it might involve all voting Council members, save one, in order to ensure no motion was ever seconded by another member.

The second element was to deliberately deny crewmembers the chance for equitable change "by insisting on a minimum five-year trial run" of crab privatization before modifications could be made. This roadblock flies in the face of the legal fact that the CR program could be changed at any time, without making any compensation to existing quota privilege holders.

Meanwhile, processors and ITQ-holders have continually pressed the Council, successfully, to change the CR program to overcome their problems. The "damage control" plan helps explain why only token images of reciprocity were given crew concerns.

The third element was to "quiet angry voices with a prudent delay" by ensuring that the Economic Data Report (EDR) information not be timely shared with crewmembers, so that they could not calculate historical participation rights using official data sources.

NPFMC actions to date strongly indicate coherence with the conspiracy's blueprint. What clearer evidence is needed than the April 2008 "strong six" voting record of the Council, data report delays, ITQ-holders' testimonies, and records of phone calls strong-arming crew into not voicing public comments that they had moments before signed up to give on the federal record? [Or the 2009 manipulations of the crew (and lease) discussion paper, that got tabled until the 5-year review process comes back up in October 2010?]

The current Council approach of using a modifying motion that would merely lock crew into buying quota, from existing ITQ-holders if and when it ever comes up for sale, looks like the addition of "a fourth element" to the racket in progress.

Be assured, federal law enforcement has been seriously looking into this for quite awhile. According to federal guidelines, "Once existence of a conspiracy has been established, only a slight connection to the conspiracy is necessary in order to convict any one defendant of knowing participation."

Consider for example surveillance on January 28, 2004 that reveals, with crewmembers absent, the "Distant Waters Committee" met in Seattle before the February NP council meeting. Some attendees openly discussed how favorable it was for them to be in possession of most of the data necessary for scientists and economists to fully evaluate the CR program, and they gleefully talked of leaving it out of required impact reports: before the program even became law.

Lay Share Contracts Ignored:

So, given such intents, it's no surprise that the award of ITQs blatantly disregarded "lay share" maritime contracts, required under 46 U.S.C. § 11107 and § 10601 as amended, that should have certified the pre-rationalization level of historical skipper and crew participation rights.

Instead, harvesting quotas were misallocated 97% to "vessel owners" and a meager 3% was given to skippers. Yet skippers historically got a "lay share" between 10 and 17% of harvest settlements, and the handful of crewmembers typically onboard each vessel historically split another 20 to 25%. But if they got 40% before, then why shouldn't they get 40% today—quotas or not?

To resolve this requires a separate reallocation Amendment, particularly because crewmembers will keep facing these issues, nationwide for many species.

Consequently, the recent 9th Circuit Court's pro-prosecution ruling on the Weyhrauch indictment's fraud charges may offer perspective about the "honest services" owed by public officials and agency decision-makers.

States' Responsibility is Obvious:

Former Alaska Governor and U.S. Interior secretary Walter Hickel said, "***If you steal $10 from a man's wallet, you're likely to get a fight, but if you steal billions from the commons, co-owned by him and his descendants, he may not even notice.***"

Moreover, when the government becomes extremely biased toward privatization of the public commons for special interests, then the eventual losers beyond taxpayers and consumers are the ecosystem and future generations who lose opportunities to exercise privileges to fish.

Yet it is easy to redefine fixing Crab Rationalization as a moral imperative, with practical solutions. First, the State needs to get the crew reallocation Amendment in place. Second, it must end high lease rents on ITQs.

Squashing any Demagogue:

If some of Alaska's NP council members were squarely in on the "damage control" plan, then there's a good chance that Governor Sarah Palin is being deliberately blindsided by those inside connivers.

The mastermind behind the "confidential (sic) communication" recommending damage control clearly expressed, "**Our final concern is that someday a newly-appointed NPFMC voting member from Alaska could mount a serious political crusade on behalf of Alaskan coastal communities and their resident local businessmen to 'do the right thing' and 'make things right for crab skippers and crewmen'—as it would be the unwelcome rise of a "grass roots demagogue [who] could stress the political system in Alaska sufficiently to prompt a reallocation—to the detriment of our clients' interests."**

Could someone explain just why protecting crewmembers would be considered "a serious political crusade"—instead of the expected conduct of business for Alaska's federal council members?

Is it possible that the successful implementation of this conspiracy also tainted the recent choice of a new Washington State representative to the NPFMC? Is the State of Alaska even aware of the federal lobbying dollars that key processors spent to influence the choice of who just got that position?

Yes, Mr. Secretary, Congress, and Governor Palin, you will be asked to keep bowing before these resource kleptocrats—until you find the courage to stand up, execute the moral imperative, and stop this racketeering.

We leave crewmembers with one final thought, from Mahatma Gandhi, "***First they ignore you, then they ridicule you, then they fight you, then you win.***"

Stephen Taufen, Groundswell Fisheries Movement—Website:
http://groundswellalaska.com

Locator for Original Article:
http://alaskareport.com/news1208/x61838__crew__conspiracy.htm

Locator for evidence attachment:
http://alaskareport.com/pdf/CrabConspiracy.pdf

[A letter submitted for the record by James and Shirley Zuanich, Bellingham, Washington, follows:]

March 15, 2010

Subcommittee on Insular Affairs, Oceans and Wildlife

To Whom It May Concern;

Quota shares seem to have become the latest panacea for fisheries resource problems both real and perceived.

While the 'Q' of IFQ is necessary biological management, the 'IF' is largely social and economic.

If a reasonable scientifically supported quota is determined and enforced, it is in most cases immaterial, from a biological standpoint, whether that quota is harvested by individual shares or in an open access fishery. IFQ fisheries will generally be somewhat safer for participants and can significantly increase ex-vessel value,

but it is hard for me to see where they have much biological impact in the fisheries I am familiar with.

Halibut and black cod IFQ regimes created broad based ownership of the resource. They provided for the sustainability of small "blocked" share that have been instrumental in allowing crew men to acquire assets in the fishery. They made an especially dangerous fishery safer, provided a steady stream of product to the market, and have increased the value of the fishery substantially.

Crab IFQ's have also made that fishery safer. They have made the fishery more lucrative, but not necessarily for fishermen. Crab IFQ's have concentrated ownership in the hands of a few and made the limited number of owners extremely rich. They have eliminated well over half the jobs in the fishery without making the remaining jobs any better paying. In fact, creating competition for the few remaining jobs while limiting boats, has actually made the remaining jobs substantially less lucrative.

If created at all (and most often they should not be,) it is my observation that IFQ fisheries need to be designed with great care. They will not automatically, if at all, lead to more sustainable harvest. They can create fisheries in which a small handful of quota share owners reap fortunes while jobs and small businesses are destroyed. They can destroy the economic basis for communities.

Fishing people generally love their work and the culture of fishing. In spite of the cold and wet, and the absences from home, generally fishing families feel privileged to be a part of this world. You would have to be there to understand, but it is true.

Sincerely,

James and Shirley Zuanich Bellingham, Washington

To the Committee of Insular Affairs, Oceans and Wildlife;

I keep thinking about this issue of catch shares, and the over arching problem for me is this; a few people and organizations will enjoy fantastic power and wealth because of catch shares. I need not recite to people in Washington DC what our country has recently endured because of too much power and wealth in the hands of the few and the subsequent cozy relationship with the government regulators who were supposed to be checking them. State of Alaska fisheries management was referred to by the National Geographic as "State of art," in fisheries management. The hallmark of Alaska fisheries management, (outside of halibut and crab) has been broad 'ownership' of those resources by many, many independent small businesses, whose store front happens to be a boat. Catch shares may seem like the silver bullet for fisheries management, but I promise you, as fewer and fewer people get wealthier and wealthier by the catch share system (and this will happen) fisheries biologists will lose their scientific autonomy to undue political pressure. On a personal note, knowing about the 'heavyhitters' in our industry, like any other industry, generally, but not all of these folks are not nice people, whose main interest is their own interest.

PLEASE, USE WISDOM! Walmart is a heavy contributor to the Environmental Defense Fund. What is their motive? Environmental groups (and I am largely a Democrat)) are as subject to charlatans and charismatic nut cases as any other group-type.

Sincerely,

Shirley Zuanich

* * * * *

OVERSIGHT HEARING ON "A COMMUNITY PERSPECTIVE ON CATCH SHARES"

Thursday, April 22, 2010
U.S. House of Representatives
Subcommittee on Insular Affairs, Oceans and Wildlife
Committee on Natural Resources
Washington, D.C.

The Subcommittee met, pursuant to call, at 10:07 a.m. in Room 1324, Longworth House Office Building, Hon. Madeline Z. Bordallo presiding.

Present: Representatives Bordallo, Kildee, Pallone, Christensen, Capps, Shea-Porter, Kratovil, Inslee, Brown, Cassidy.

STATEMENT OF HON. MADELINE BORDALLO, A DELEGATE IN CONGRESS FROM THE TERRITORY OF GUAM

Ms. BORDALLO. The oversight hearing by the Subcommittee on Insular Affairs, Oceans, and Wildlife will come to order. Today, we will hear testimony on "A Community Perspective on Catch Shares."

Rebuilding fisheries has clear ecological and economic benefits for fish, fishers, and the fishing communities. To achieve these benefits, fisheries must be managed using the best available science and a suite of management tools, including, but not limited to, catch shares. Catch share programs are one fishery management tool in which fishermen, cooperatives, or communities are allocated a specific portion of a total allowable fishing quota.

Management of fisheries using catch shares has thus far been limited in the United States with only 15 existing programs that have had mixed results. However, under the Obama Administration, the National Oceanic and Atmospheric Administration has taken steps to actively promote the use of this particular tool through a draft policy and a Fiscal Year 2011 budget request of $54 million for a national catch share program.

If funded, this would more than double the catch share budget at the agency. Given the clear drive toward this one fishery management tool, the Subcommittee held a hearing in March on the need to carefully design and implement the catch share programs to ensure their success as a conservation and management tool.

At the hearing, there was common ground on the need for better data and monitoring to make management decisions and community involvement in setting goals. However, there was limited

agreement on the prioritization of catch shares over other fishery management tools. Proponents argued that catch share programs reduce bycatch and increase efficiency, while opponents are concerned about fleet consolidation and the costs of implementation.

What was clear was that once a catch share program is put into place, it is very difficult to go back and address any unintended consequences. Although these consequences are difficult to predict, it is critical that we continue to discuss the potential social and economic impacts of implementing catch share programs. Today's hearing, therefore, focuses on the individual community's experiences and concerns related to the adoption of this fishery's management tool.

So, I look forward to hearing from our witnesses today to gain a better understanding of fishing communities' apprehensions and aspirations regarding catch share programs. As we all know, in celebrating the 40th anniversary of Earth Day today, stewardship of our resources begins locally. In order to conserve our nation's fisheries, it is imperative that the National Marine Fisheries Service consider the concerns of the people who call our fishing communities home.

And I now would like to recognize Mr. Brown, the Ranking Republican Member of the Subcommittee, for any opening statement that he may have.

[The prepared statement of Chairwoman Bordallo follows:]

Statement of The Honorable Madeleine Z. Bordallo, Chairwoman, Subcommittee on Insular Affairs, Oceans and Wildlife

Rebuilding fisheries has clear ecological and economic benefits for fish, fishers, and fishing communities. To achieve these benefits, fisheries must be managed using the best available science and a suite of management tools, including, but not limited to "catch shares". Catch share programs are one fishery management tool in which fishermen, cooperatives, or communities are allocated a specific portion of a total allowable fishing quota.

Management of fisheries using catch shares has thus far been limited in the United States, with only fifteen existing programs that have had mixed results. However, under the Obama Administration, the National Oceanic and Atmospheric Administration has taken steps to actively promote the use of this particular tool through a draft policy and a Fiscal Year 2011 budget request of $54 million for a National Catch Share Program. If funded, this would more than double the catch share budget at the agency.

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However, there was limited agreement on the prioritization of catch shares over other fishery management tools. Proponents argued that catch share programs reduce bycatch and increase efficiency, while opponents are concerned about fleet consolidation and the costs of implementation.

What was clear, was that once a catch share program is put into place, it is very difficult to go back and address any unintended consequences. Although these consequences are difficult to predict, it is critical that we continue to discuss the potential socio-economic impacts of implementing catch share programs. Today's hearing, therefore, focuses on the individual communities' experiences and concerns related to the adoption of this fisheries management tool.

I look forward to hearing from our witnesses today to gain a better understanding of fishing communities' apprehensions and aspirations regarding catch share programs. As we all know, in celebrating the 40th anniversary of Earth Day today, stewardship of our resources begins locally. In order to conserve our nation's fisheries, it is imperative that the National Marine Fisheries Service consider the concerns of the people who call our fishing communities home.

STATEMENT OF HON. HENRY E. BROWN, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF SOUTH CAROLINA

Mr. BROWN. Good morning, Madame Chair, and Happy Earth Day.

Ms. BORDALLO. Thank you.

Mr. BROWN. Now, Madame Chair, as I mentioned in my statement in the last catch share hearing, thousands of recreational, charter, and commercial fishermen came to Washington, D.C., in February to air their concerns about the direction fishery management has taken in this country. Rarely do we see all of these fishery sectors speaking with one voice, but in this case, we did.

At a Subcommittee hearing on catch shares in March, we heard a number of themes that were echoed by Members on both sides of this dais—that better science is needed before fishery managers can make good decisions; that more, not less, funding for stock assessment is necessary; and the Administration should not take funding away from important science functions of the agency to fund a new catch share initiative. While there may still be disagreements about whether catch share management systems can or should be used in certain areas of this country, I believe it is fair to say that any effort to create catch share systems should not be dictated from Washington, D.C.

If fishermen decide they are interested in some form of catch shares, they should work within the Regional Fishery Management Council system and within the existing rules in the Magnuson-Stevens Act. However, before any catch share systems are put in place, it is important that the agency has basic information on the fishery. Some people like to forget that NOAA is a resource management agency, and the agency has a duty to fund the science that is necessary for these resource management responsibilities.

Madame Chair, I know at the Subcommittee budget hearing, we requested a breakdown on how the $17 million for catch share in 2010 is being spent and how the agency intends to spend the $54 million in Fiscal Year 2011. I don't believe we have received that information yet, but I would also like to ask the agency to provide us with how their Fiscal 2011 budget proposal will be used to keep the Red Snapper Fishery open next year.

The Red Snapper Fishery is a clear example of management decisions being made without adequate science, and those faulty management decisions are having a huge impact on coastal communities, including those of my congressional district.

Finally, Madame Chair, I would like to welcome all of our witnesses, but in particular I would like to recognize Jim Donofrio and Jeff Angers. I work with those two gentlemen on a number of fishery-related issues and am pleased that they are here today. With that, I yield back. Thank you, Madame Chair.

[The prepared statement of Mr. Brown follows:]

Statement of The Honorable Henry E. Brown, Jr., Ranking Republican, Subcommittee on Insular Affairs, Oceans and Wildlife

Good morning, Madam Chairwoman, and Happy Earth Day.

Madam Chairwoman, as I mentioned in my statement at the last catch shares hearing, thousands of recreational, charter, and commercial fishermen came to Washington, DC in February to air their concerns about the direction fisheries man-

agement has taken in this country. Rarely do we see all of the fisheries sectors speaking with one voice, but in this case, we did.

At the Subcommittee hearing on catch shares in March, we heard a number of themes that were echoed by Members on both side of the dais—that better science is needed before fishery managers can make good decisions; that more, not less funding for stock assessments is necessary; and that the Administration should not take funding away from important science functions of the agency to fund a new catch shares initiative.

While there may still be disagreement about whether catch share management systems can or should be used in certain areas of the country, I believe it is fair to say that any efforts to create catch share systems should not be dictated from Washington, D.C. If fishermen decide they are interested in some form of catch shares, they should work within the regional fishery management council system and within the existing rules in the Magnuson-Stevens Act. However, before any catch share systems are put in place, it is important that the agency has basic information on the fishery.

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Finally, Madam Chairwoman, I would like to welcome all of our witnesses, but in particular, I would like to recognize Jim Donofrio and Jeff Angers. I have worked with these two gentlemen on a number of fishery-related issues and I am pleased they are here today.

Thank you, Madam Chairwoman.

Ms. BORDALLO. I thank the gentleman from South Carolina, Mr. Brown. And I would now like to recognize our first panel of witnesses to testify. Our witnesses include Captain David T. Goethel, Fishing Vessel Ellen Diane; Julian Magras, Chairman of the Board, St. Thomas Fishermen's Association; Captain Wayne Moody, Fishing Vessel Capriccio; and Jefferson Angers, President of the Center for Coastal Conservation.

I would like to thank our witnesses for being here today. And as we begin, I would note that the red timing light on the table will indicate when five minutes have passed and your time has concluded. We would appreciate your cooperation in complying with these limits. Be assured, however, that your full written statement will be submitted for the hearing record.

And now, Mr. Goethel, welcome back to the Subcommittee, and you may begin your testimony.

STATEMENT OF CAPTAIN DAVID T. GOETHEL, FISHING VESSEL ELLEN DIANE

Captain GOETHEL. Thank you, Madame Chair. Thank you for the invitation to testify on community perspectives on catch shares. I am the owner/operator of a 44-foot dragger, the Ellen Diane, of Hampton, New Hampshire. I am also a member of the New England Fisheries Management Council, but I am speaking today as a member of the New Hampshire commercial fishing community, and not on behalf of the Council.

The number one priority our communities would like to see established is our ability to continue to exist. As currently constructed, Amendment 16 leaves not one vessel in New Hampshire able to cover short-term operating expenses with the quota they have received. In short, the effects of Amendment 16 on New Hampshire's fleet are predictable, catastrophic, and unnecessary.

The reasons for this are many and varied. First, NOAA Fisheries continues to define fisheries on a single-species basis, rather than using the definition of a fishery in the Magnuson-Stevens Act, which states the term "fishery" means one or more stocks of fish which can be treated as a unit for the purposes of conservation and management, and any fishing on those stocks.

Thus, in New England, each fisherman has received an individual allotment of each of the 12 species comprising 19 stocks of the multi-species ground fish fishery. All of these fish swim together and cannot be caught in the prescribed allotments. The practical implications of this are that catch shares will result in massive under-harvesting of most species, as people are forced to stop fishing when they have harvested the species for which they have the lowest allocation, even when that species may be a fully rebuilt stock, such as haddock.

Second, the Council failed to fairly and equitably allocate the fish, both between user groups—commercial and recreational—and within the commercial fishery. By choosing a straight catch history-based system and a time period in which small boats were effectively shut out of the fishery by rolling and permanent closures, differential counting of days at sea and inshore areas, and were thus unable to establish catch history, the Council effectively ceded control of the fishery to large vessels, which could establish a history outside of these inshore areas.

While I protested these actions vigorously at the Council meetings, NOAA Fisheries, through its regional administrator, Ms. Kurkul, and acting head of NOAA Fisheries, Dr. Balsinger, sat silent and said nothing to remind the Council of its responsibilities under National Standards 4 and 8 of Magnuson-Stevens.

Finally, in response to my dissenting opinion filed with the Secretary of Commerce in June of 2009, Mr. Schwaab, on behalf of NOAA, responded with a letter, which arrived in my mailbox two hours after notice of the availability of the final rule for Amendment 16 on March 31, 2010, rendering further discussion of their response useless. If allowed to stand unchallenged, this will render National Standard 4 meaningless. Thus, the small boat fishing communities of New Hampshire and other regions are left to seek fair and equitable treatment under the law through this committee and in lawsuits filed with the courts.

For those boats that survive the initial consolidation, the long-term costs of running sectors, once returned to the fishermen, will ultimately cripple them. NOAA is proposing to spend nearly $50 million on implementation of catch shares in New England. The most recent ex-vessel value of the fishery is $60 million for the fish proposed to be managed in Amendment 16. Thus, it is plainly apparent that absent long-term government subsidies for monitoring costs, those costs render the entire fishery non-viable.

Congress might also wish to consider that with the 150 to 200 new people being hired, combined with the existing staff at the regional office, there are now more bureaucrats at NOAA Fisheries than fishermen actively fishing. It is without a hint of irony that I suggest NOAA should consider assigning each fisherman his own personal bureaucrat who would do the catch monitoring, observing, enforcement, VMS submissions, log books, and other myriad requirements of sectors. This would increase the viability of the program while dramatically lowering the cost to both taxpayers and fishing communities.

As you can see by the aforementioned information and the lack of consolidation controls in Amendment 16, my main concern for the fishing communities in New England is their ability to avoid consolidation long enough for Congress or the courts to intervene. As Dr. Julia Olson of NOAA Fisheries stated in her paper, which I have provided and urge the committee members to read, the effects of consolidation, quote, "range from employment loss, decreased income, decreased quality of life, changing relations of production, structural disadvantages to smaller vessels and firms, dependency and debt patronage, concentration of capital and market power, inequitable gains, regulatory stickiness, reduced stewardship, decreased community stability, loss of cultural values, and so on."

Dr. Olson continues, "Thus the question of capacity reduction is ultimately not simply an issue of economic efficiency, but a question of what values to promote and what the future of the fishery and its fishing community should look like." Catch shares are primarily an economic tool to force consolidation. They do not, despite the millions of dollars spent on public relation campaigns by major environmental NGO's, necessarily produce better biological results than other systems of management.

They do, however, radically reshape fishing communities if adequately safeguards, such as consolidation caps and allocation caps, are not made to ensure the viability of small boat communities. NOAA Fisheries and the Regional Councils must be ordered to provide these caps before the implementation of catch share programs. Catch shares are set to begin May 1, 2010, in New England, with consolidation and the negative social consequences to follow soon thereafter.

If you wish to preserve a way of life that has existed in New Hampshire for over 400 years, iron men in small ships putting little strain on the resource, but supplying a relatively large number of jobs, it is time for NOAA Fisheries, Congress, and the courts to fish or cut bait. Thank you.

[The prepared statement of Captain Goethel follows:]

Statement of Captain David T. Goethel, Owner/Operator, Fishing Vessel "*Ellen Diane*"

Dear Madam Chairwoman,

Thank you for the invitation to testify on community perspectives on Catch Shares. My name is David Goethel and I am owner operator of the 44 foot dragger the Ellen Diane of Hampton, New Hampshire. I am also a member of the New England Fishery Management Council but I am speaking today as a member of the New Hampshire Commercial Fishing Community and not on behalf of the Council.

The number one priority our communities would like to see established is our ability to continue to exist under a catch share program. As currently constructed,

Amendment 16 to the Groundfish plan, leaves not one vessel in New Hampshire able to cover short term operating expenses with the quota they have received. In short, the effects of Amendment 16 on New Hampshire's fleet are predictable, catastrophic and unnecessary.

The reasons for this are many and varied and I can only highlight a few in the time allotted. First, NOAA Fisheries continues to define fisheries on a single species basis rather than using the definition of a fishery in the Magnuson-Stevens Fishery Conservation and Management Act (99-659,101-627(13) A) which states, "The term "fishery" means—

A. one or more stocks of fish which can be treated as a unit for purposes of conservation and management which are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics; and

B. any fishing for such stocks."

Thus in New England each fisherman has received an individual allotment of each of the twelve species, comprising nineteen stocks of the multispecies groundfish fishery. All of these fish swim together and cannot be caught, in the prescribed allotments. The practical implications of this are that catch shares will result in massive under harvesting of most species as people are forced to stop fishing when they have harvested the species for which they have the lowest allocation, even when that species may be a fully rebuilt stock such as haddock. Second, the council failed to fairly and equitably allocate the fish both between user groups, commercial and recreational, and within the commercial fishery. By choosing a straight catch history based system and a time period in which small boats were effectively shut out of the fishery by rolling and permanent closures, and differential counting of DAS in inshore areas, and thus unable to establish catch history the council effectively ceded control of the fishery to large vessels which could establish history, outside of these inshore areas. While I protested these actions vigorously at the council meetings NOAA fisheries through its Regional Administrator Ms. Kurkul, and acting head of NOAA Fisheries Dr. Balsinger sat silent and said nothing to remind the council of its responsibilities under National Standard 4 and 8 of Magnuson-Stevens. Finally, in response to my dissenting opinion, filed with the Secretary of Commerce in June 2009, Mr. Schwaab, on behalf of NOAA, responded with a letter which arrived in my mailbox two hours after notice of the availability of the final rule for Amendment 16, on March 31, 2010 rendering further discussion of their response useless, except through the courts. If allowed to stand unchallenged this will render National Standard 4 meaningless also. Thus the small boat fishing communities of New Hampshire and other regions are left to seek fair and equitable treatment under the law through this committee and in lawsuits filed with the courts.

For those boats that survive the initial consolidation the long term costs of running sectors, once returned to the fishermen, will ultimately cripple them. NOAA is proposing to spend nearly 50 million dollars on implementation of catch shares in New England. The most recent ex-vessel value of the fishery is 60 million dollars for the fish proposed to be managed in Amendment 16. Thus, it is plainly apparent, that absent long term subsidization of monitoring costs, those costs render the entire fishery nonviable. Congress might also wish to consider that with the 150-200 new people being hired, combined with the existing staff at the regional office, there are now more bureaucrats at NOAA Fisheries then fishermen actively fishing. It is without a hint of irony that I suggest NOAA should consider assigning each fisherman his own personal bureaucrat who would do the catch monitoring, observing, enforcement, VMS submissions, log books and other myriad requirements of sectors. This would increase the viability of this program while dramatically lowering the cost to both tax payers and fishing communities.

As you can see by the aforementioned information and the lack of consolidation controls in Amendment 16 my main concern for fishing communities in New England is their ability to avoid consolidation long enough for Congress or the Courts to intervene.

As Dr. Julia Olson, of NOAA Fisheries Northeast Fishery Science Center states in her paper, which I have provided and urge the committee members to read, the effects of consolidation, *"range from employment loss, decreased income, decreased quality of life, changing relations of production, structural disadvantages to smaller vessels and firms, dependency and debt patronage, concentration of capital and market power, inequitable gains, regulatory stickiness, reduced stewardship, decreased community stability, loss of cultural values, and so on."*

Dr. Olson concludes that same introductory paragraph with, *"Thus the question of capacity reduction is ultimately not simply an issue of economic efficiency, but a question of what values to promote and what the future of the fishery and its fishing communities should look like."*

Catch shares are primarily an economic tool to force consolidation. They do not, despite the millions of dollars spent on public relations campaigns by major Environmental NGO's, necessarily produce better biological results, than other systems of management. They do, however, radically reshape fishing communities if adequate safeguards such as consolidation caps and allocation caps are not made to ensure the viability of small boat communities. NOAA Fisheries and the Regional Councils must be ordered to provide these caps before the implementation of catch share programs. Catch shares are set to begin on May 1, 2010 in New England with consolidation and the negative social consequences to follow soon thereafter. In fact the consolidation has already begun. If you wish to preserve a way of life that has existed in New Hampshire and New England for over 400 years, iron men in small ships putting little strain on the resource but supplying a relatively large number of jobs, it is time for NOAA Fisheries, Congress and the Courts to fish or cut bait.

[NOTE: A paper by Dr. Julia Olson, NEFSC, entitled "Social Impact Assessment Literature Review: Leasing and Permit Stacking" dated August 5, 2009, submitted for the record has been retained in the Committee's official files.

Response to questions submitted for the record by David T. Goethel, Captain, Fishing Vessel *Ellen Diane*

Questions from Congressman Jay Inslee (D-WA)

1. **This is the second hearing that we have had on catch share fishery management programs, so there has been a lot of discussion about catch shares. But I'm not sure we have heard from many witnesses that actually have participated in catch share programs. Can you tell me your experience fishing in a catch share program? Do you have a federal permit to fish in a catch share managed fishery?**

Answer from David Goethel: I am participating in the catch share program and I am a member of NH Sector XII. However I have not left the dock yet (gone fishing since the system went into effect on May 1, 2010) because I have so little white hake and winter flounder allocation, that in one day of fishing I could exceed my yearly quota of these species and would be shut down and potentially fined if no one within my sector has fish to cover the overage. I also only have 1600 pounds of haddock, a fully rebuilt stock, despite having over 50,000 pounds of cod. There is currently no trading mechanism between sectors and other members of my sector have less allocation than I do. Until I can buy some of these species from some other sector or until some other remedy is offered I cannot fish. NMFS was supposed to have the trading and purchasing mechanism up and running before the sector program went into effect on May 1st. As of today May 16, 2010 there is no effective way to allow the trading or purchase of allocation. The National Marine Fisheries Service has decided through its administrative rules for sectors that even when the trading mechanism is in place that no one in a sector may trade or purchase allocation unless every member of a sector (active or inactive) have submitted their logbooks for that week. This will tie boats to the dock possibly for months until it is straightened out. (See enclosure provided)

I have one federal fishing permit which I fished as actively as possible throughout the qualification period. In addition, I have two permits I purchased before the idea of catch shares. They turn out to have virtually no catch history rendering them almost worthless despite having a fairly large number of Days at Sea from the old program. Thus I am hampered from purchasing quota under the new system (when a mechanism is finally put into place) because I am still paying for now worthless Days at sea from the old system.

Finally, the Regional Office should be credited with putting this incredibly complex program together in a very short period of time. This has not allowed any pretesting of the components prior to implementation. As with any complex system, bugs are occurring regularly which only add to participant's anger and frustration.

2. **You wrote a letter to the New England Fishery Management Council last June in which you stated that Amendment 16 to the Groundfish FMP is "vital to ongoing efforts to rebuild New England groundfish stocks." But you took issue with the qualifying periods used to allocate the TAC to the various sectors, a situation you stated "could have easily been remedied by establishing a common, fair and equitable baseline of 1996-2006 for all user groups." Would you therefore have voted in favor of Amendment 16 if it used the qualifying period you suggested to allocate TAC for all user groups?**

Answer from David Goethel: At that time I would have voted for submission if we had established an equitable period to divide the commercial and recreational fishery and provided the commercial fishery fair currency exchange between A days at sea and stocks landed. From the industries perspective this was the most critical element of the change in management strategies and the most important in maintaining continuing community access. As such, allocation formulas require extreme transparency so that the public can see that council members have represented all the public not just their own or their states special interests. In my opinion, the New England Council failed in this critical situation.

If, however, the vote had been held after we understood the monetary costs of this program, combined with the impossibility of making it work on a single species basis I still would have cast a vote against submission.

Questions from Republican Members

1. **Dr. Rothschild predicts that there will be a 50% drop in employment due to the new sector system Do you think he's accurate?**

Answer from David Goethel: I believe the number will be more like 80% of captains and crew if this program is not revised. When you figure in the number of dockside monitors, observers, sector managers and bureaucrats hired from outside the fishing industry to run sectors, the net employment loss may be 50%.

2. **Some have argued that the New England fishing fleet is too large to be economically viable and that even without a change to a sector system, a large number of fishermen will go out of business. Do you think a reduction in the fishing fleet was inevitable and if so, what effect on the coastal communities would this have? If not, why not?**

Answer from David Goethel: The fleet has shrunk from 1800 boats at the start of limited entry to 550 which currently have a VMS and thus are allowed to land groundfish. I believe the fleet would have continued to contract slowly to around 450 boats if we had continued with DAS. I believe this is a sustainable number of vessels if the vessel size distribution is maintained. However, no one including NMFS, has a clear idea of a sustainable fleet composition. I think the fleet under sectors will contract to 100-200 primarily large vessels in large ports. Small ports will lose all of their vessels because many do not have enough fish allocated to be viable and any that are left will not be able to pay to keep the infrastructure in place. If we had provided a straight conversion of A days to stocks landed most of the smaller vessels as well as many of the larger vessels would be more likely to survive in the short term. However, since sectors are all about economics and not biology, ultimately a handful of wealthy large players will emerge.

3. **Dr. Rothschild expresses a concern about "wasted" bycatch" that is thrown overboard rather than landed. That raises an interesting dilemma on how to reduce wasted bycatch without encouraging targeting bycatch species. How do you propose NMFS deal with this?**

Answer from David Goethel: I have always felt that zero, or very low possession limits i.e. below what people can reasonably stay away from when targeting other species, are counterproductive. Littering the ocean with dead fish solves nothing and probably hinders rebuilding. However this is a strategy favored by NMFS because it is easily enforced. I favor low trip limits that will not encourage targeting the species and thus waste as little as possible. There are usually clear breakpoints in the landing data that indicate bycatch amounts versus directed trips. With zero possession limits you have an added scientific problem of insufficient catch for sampling to do required analysis for stock assessments.

Finally it is ironic that the chief selling point of sectors, the elimination of regulatory discards, will be largely negated by the creation of choke species by single species ACL's. Fishermen have been given a very positive economic incentive to discard species for which they have very little quota in order to achieve overall maximum utilization of their multispecies TAC;s.

4. **The changes to the Magnuson-Stevens Act which require individual fishery accountability were an effort to change the balance between ecological concerns and economic concerns. Do you think the language in Magnuson went too far? If so, what should Congress look at to correct this balance?**

Answer from David Goethel: The problems are not necessarily with Magnuson but with NMFS interpretation and the guidelines they produce for the councils. The chief problem in New England is that NMFS insists on managing a multispecies fishery on a single stock basis. I believe the definition of a fishery under Magnuson

already exists. (please reference my written April 22 testimony) If NMFS can be ordered to use this definition as written with a letter that is the simple solution. If not, then Magnuson will have to be amended to say that a multispecies fishery will be managed using multispecies ACL's and AM's and a multispecies TAC.

The second area of Magnuson that needs clarification is the Limited Access Privilege Program (LAPP's) NMFS interpretation that sectors are not LAPP's flies in the face of common sense. Congress should clearly state that anytime you allocate fish, in any way, on an individual vessel basis, that it is a LAPP and requires a referenda. This will force councils to allocate fish fairly, and burden the industry with minimal costs in order to secure a positive vote. My suggestion, if NMFS refuses to deal with these issues, with a letter from the committee, would be to add the corrective language to a bill already in Congress and amend Magnuson, rather than begin a full scale reauthorization.

It has become apparent to many of us involved in fishery management that there is no effective feedback loop between the oversight authority of Congress and the guidelines published by NMFS after passage of Magnuson. Congress needs to clearly assert its oversight authority so that NMFS guidelines do not subvert or modify the will of Congress as expressed in Magnuson. The easiest way I can see to accomplish this is through Congressional hearings on proposed guidelines prior to publication as final rules.

5. Some fishermen have complained about the new accountability measures being implemented by NMFS. Do you also have concerns, and if so, what are your specific concerns? What suggestions would you give Congress to correct these concerns?

Answer from David Goethel: I do not have major concern with accountability measures other than a preference for ratcheting down both commercial and recreational fisheries as ACL's are approached. As always NMFS prefers administratively simple solutions such as a fishery opening or closure. I prefer measures such as changing the differential counting rate of days in DAS for the commercial fishery or descending bag limits in recreational fisheries that keep the fisheries open, but on a reduced scale, throughout the year. My greater concern is the amount of fish being taken off the table in the ACL setting process for science and management uncertainty. I believe ACL's should be set just slightly below the OFL and that NMFS should direct less money to administrative issues and more to reducing scientific uncertainty.

6. It seems that all of the panelists today would agree that prior to implementing a catch share management system, NMFS must have good data on the status of the fishery, the ecological needs of the fishery, and the economic needs of the fishery. Does NMFS have this type of information on New England groundfish? If not, how can they effectively implement a totally new system?

Answer from David Goethel: The problem with sectors in New England was the "fire, ready, aim" approach used in their creation. What should be done is, when considering a new approach to management, is to assess what data will be required, and determine if it is available in useable form. If not, audit, update and correct the data before proceeding. In New England, because of the rush to pass Amendment 16, this was not done. Instead major flaws such as, assigning catch history from a faulty landings data stream, and forcing vessels to live with it, have been exposed. This has caused hardship, anxiety and anger.

The economic and social data, which is used to determine effects on communities, needs major updating. First it is set up to produce aggregate information on community averages. Communities are made up of individuals who often have no relation to the average what so ever. This will require administrative changes within NMFS so that economic and social scientists can have access to individual vessel data. Currently we cannot even get aggregate information on harbors with less than three vessels. These are usually the communities most severely impacted by changes in management.

7. According to a NOAA document, they are suggesting that there are 8 potential catch share programs that may be developed or implemented in the next two fiscal years (not including the groundfish multi-species fishery). These include: sea scallops general category, monkfish, whiting/hake, sea scallops sectors, herring, dogfish, mahogany quahogs, and skates. Do you have any comments on this list or the fact that NMFS believes catch shares would work in these fisheries?

Answer from David Goethel: NMFS is irrationally consumed with catch share fever at the moment. The council, on the other hand has received an intervention

after hitting rock bottom with New England groundfish, and is currently suffering withdrawal. Absent, virtual unanimous approval of sector management as a preferred way of management by a fishery, I doubt the council will impose sector management on that fishery. Fisheries such as monkfish, herring and scallops, that had expressed an interest in sectors several years ago, have told the council in no uncertain terms that they want nothing to do with sectors after seeing what happened with groundfish. This is unfortunate because the concept could work in some fisheries with a careful, methodical, well conceived management plan that is voted on by industry in a referendum. Instead because New England was rushed to please the boss and pass a poorly thought out program they have rendered sectors toxic to an entire generation of fishermen across all New England fisheries. New England has a memory like an elephant. We had to wait 30 years for an entire generation of fishermen to move through the groundfishery after a poorly thought out and executed quota system was adopted in the 1970's. I hope we have not created a similar situation with sectors.

Ms. BORDALLO. Thank you, Mr. Goethel, for a very interesting testimony and for further explaining how consolidation can occur under catch share programs.

Before we begin with the next witness, for those standing in the back of the room, if you would care to sit, there are seats around the lower table here. This may be a long hearing. You are more than welcome to be seated here.

Mr. Magras, it is good to see you again as well, and you may begin with your testimony.

STATEMENT OF JULIAN MAGRAS, CHAIRMAN OF THE BOARD, ST. THOMAS FISHERMEN'S ASSOCIATION

Mr. MAGRAS. I testify before you today on the response of the St. Thomas fishing community to pressures to implement catch shares by the National Marine Fisheries Service and the Caribbean Fishery Management Council.

We do not support the application of catch shares in the Virgin Islands, as we believe that they would simply be another device to build justifications for further Draconian catch reductions by agencies that have already used their own failures over past decades as justification for punishing Virgin Islands fishermen.

The St. Thomas Fishermen's Association is an entirely voluntary, not-for-profit corporation organized in 2005 under VI law. It was established for the purpose of involving VI fishermen in the management process and created greater understanding by fishermen on the matter of fishery management. A secondary purpose was to increase understanding of Virgin Islander fisheries by fishery managers.

Our first response when the idea of catch shares was put forward was positive. We felt that a cohesive group of fishermen in the STFA had already demonstrated a willingness to take responsibility for management of their resource. For example, in the past five years, we have formed the STFA, attending every CFMC meeting, many technical meetings, and participated actively in the management process. We carried out pioneering studies of bycatch from all fisheries and created information for the first time regarding bycatch rates, species, and mortalities.

We carried out a pilot study for the development of escape vents from fish traps. In association with NOAA's biogeographic program, we are carrying out a study on trap loss, ghost fishing, and possible

retrieval of lost traps. We have just been awarded funding from NMFS' co-active resource program to finalize escape-vent design.

STFA members on their own initiative have begun an effort to reduce the number of traps being used in the fishery. In other words, the STFA has become a force for sustainable management, which could effectively take responsibility for management of its own resource base. In addition, STFA members dominate local fisheries, so actions taken by the association could effectively control effort within those fisheries.

At the April Council meeting, we stated that the STFA views management of our resources as a partnership, where we participate with the Council in setting standards for performance within our fisheries and are then responsible for meeting those standards. At the same meeting, we clearly saw that we are the only ones who view the management process as a partnership, as the NMFS regional office introduced sweeping conceptual changes in the ACL process, and the CFMC simply rubber-stamped the new proposals without any attempt to justify or understand the need for such changes.

Our own requirements for in-season landings data were simply ignored. Our partnership, then, is one where the regional office makes the decisions, which opted for three years for data analysis, and then punishes the fishermen with accountability measures. For us, this is the problem with catch shares. It represents a partnership with someone we know to be untrustworthy.

Madame Chairwoman, a second problem arises from the fact that catch shares almost always leads to consolidation within the fishery. Virgin Islanders have been fishing here for nearly four centuries. Local seafood was the only source of protein for much of that time, and generations of Virgin Islanders have built a culture and cuisine around a highly diverse resource base.

Currently, there are both commercial and subsistence elements to the fishery. Consolidation could lead to the exit of these traditional fishermen and create a public health risk for the community. It could also lead to imports, which could displace the local industry entirely.

The cultural relationship between the populace and the fishermen is strong, as evidenced by petition response and continuous interaction. Consolidation within the fishery would inherently damage the relationship, unless a totally local entity was managing the catch share program.

In summary, if there is to be any chance for catch shares in the Virgin Islands, there must be a considerable effort to strengthen the possibility for partnership, and we ask this community to create some impetus for this strengthening. I again thank you for your consideration of these concerns.

[The prepared statement of Mr. Magras follows:]

Statement of Julian Magras, Chairman of the Board, St. Thomas Fishermen's Association

Madame Chairwoman, Members of the Subcommittee, I greatly appreciate the opportunity to testify before you today the response of the St. Thomas fishing community to the National Marine Fisheries Service (NMFS) and the Caribbean Fishery Management Council. (CFMC) to pressures to implement catch shares.

The manner in which these actions are being taken show a significant disregard for the Virgin Islands culture and community, disregard for facts on the ground, and (we believe) are simply attempting to build justification for further draconian catch reductions by agencies who have already used their own failures over past decades as justification for punishing Virgin Islands fishermen.

St. Thomas Fishermen's Association

The St. Thomas Fishermen's Association is an entirely volunteer not-for-profit corporation organized in 2005 under Virgin Islands law. It was established for the purpose of involving Virgin Islands fishermen in the management process and creating greater understanding by fishermen on the matter of fishery management and by fishery managers of Virgin Islands fisheries. In addition, the STFA has carried out a number of federally funded studies addressing bycatch and trap fishing as a means to involve our member fishermen in all aspects of the management process, including data acquisition, development of management recommendations from study data and involvement of those recommendations in the management process.

We raise funds to support member attendance at fishery management meetings by holding raffles, dances and our annual "Fishermen's Fun Day" event. The STFA is not an opposition organization but one seeking intelligent and sustainable management of Virgin Islands fishery resources.

The STFA has broad community support. A petition circulated prior to the 2005 SFA Public Hearing was signed by over 6000 Virgin Islands citizens. Our Delegate to Congress Donna M. Christiansen, Governor John P. deJongh Jr. and local Senators regularly act in support of the issues facing the Association and our efforts have been covered by both local and national media. Actions taken by the STFA and by our supporters can be found at http://www.stfavi.org/CurrentIssues.html .

Until about a year ago, our relationship with the CFMC and NMFS had been one of collaboration and cooperation. However as the 2010 Magnuson deadline for ACL establishment began to approach, NMFS and the Council became less interested in a collaborative relationship and began a unilateral effort to impose their uninformed view of Virgin Islands fisheries. For our part, we began an active effort to resist such an approach and return to the climate of productive cooperation which existed in the past.

Catch Shares: Initial Response

Our first response when the idea of catch shares was put forward was positive. We felt that the cohesive group of fishermen in the STFA had already demonstrated a willingness to take responsibility for management of their resource. For example, in the past five years we have:

1. Formed the STFA and attended every CFMC meeting, many technical meetings and participated actively in the management process.
2. We carried out pioneering studies of bycatch from our fisheries and created information for the first time regarding bycatch rates, bycatch species and mortality rates.
3. We carried out a pilot study for development of escape vents from fish traps.
4. In association with NOAA's Biogeography Program we are carrying out a study of trap loss, ghost fishing and possible retrieval of lost traps.
5. We have just been awarded funding the NMFS' Cooperative Research Program to finalize escape vent design.
6. STFA members, on their own initiative have begun an effort to reduce the number of traps being used in the fishery.

In other words, the STFA has become a force for sustainable management which could effectively take responsibility for management of its resource base. In addition, STFA members dominate local fisheries so actions taken by the Association could effectively control effort within those fisheries.

Catch Shares: Concerns

At the April Council meeting we stated that "the STFA views management of our resources as a 'partnership' where we participate with the Council in setting standards for performance within our fisheries and are then responsible for meeting those standards."

At the same meeting we saw clearly, that we are the only ones who view the management process as a partnership as the NMFS Regional Office introduced sweeping conceptual changes in the ACL process and the CFMC simply rubber stamped the new proposals without any attempt to justify or understand the need for such changes. Our own requirements for in-season landings data were simply ignored. Our "partnership" then is one where the Regional Office makes the decisions, waits up to 3 years for data analysis and then punishes fishermen with accountability measures.

For us, this is the problem with catch shares-it represents a partnership with someone we know to be untrustworthy. We will provide more discussion on this matter.

Madame Chairwoman, a second problem arises from the fact that catch shares have invariably led to consolidation within the fishery.

Virgin Islanders have been fishing here for nearly 4 centuries. Local seafood was the only source of protein for much of that time and generations of Virgin Islanders have built a culture and cuisine around a highly diverse resource base.

The cultural relationship between the populace and the fishermen is strong as evidenced by petition response and continuous interaction. Consolidation within the fishery would inherently damage that relationship unless a totally local entity were managing the catch share program.

Currently there are both commercial and subsistence elements to the fishery. In addition, St. Thomas has ciguatera fish poisoning in some areas and consumers rely on fishermen (who market directly to their customers) to protect them from risk because of their knowledge and expertise. Consolidation could lead to the exit of these traditional fishermen and create a public health risk for the community. It could also lead to imports which could displace the local industry entirely.

In summary, if there is to be any chance for catch shares in the Virgin Islands there must be a considerable effort to strengthen the possibility for partnership. We ask that this committee create some impetus for this strengthening.

Who's going to partner in a Catch Shares Program?

The entire Council process has been corrupted and cannot, at present, suggest that it could be trusted as a partner in a catch share program.

1. We have already described how the Regional NMFS Office simply determines the agenda for the Council. Council members just vote as directed.
2. NMFS Southeast Fishery Science Center discarded nearly 40 years of Virgin Islands landings data despite the fact that it was they who were responsible for funding, managing and monitoring the program.
3. The Council itself discriminates against the Virgin Islands despite the fact that 89% of its jurisdiction is in Virgin Islands waters.
4. Last year for every hotel room filled in the Virgin Islands, five were filled in Puerto Rico.
5. There have only been two persons with ties to the Virgin Islands employed by the Council throughout the past 34 years.
6. Because Puerto Rico has a 9 mile Territorial Sea and the Virgin Islands only has a 3 mile limit, Council Regulations mainly affect Virgin Islands fishermen.
7. Recently the Council Chairman, slandered our Chief Scientist and lied about the Virgin Islands Conch Quota to the Scientific and Statistical Committee on the record.
8. Illegal payments have been made to "State" government employees and NMFS and the DOC IGs office are apparently attempting to cover this up.

We could continue on, with data mistakes by the Virgin Islands Division of Fish and Wildlife, the Southeast Fishery Science Center but the list is already longer that it should be.

We cannot enter into a catch shares arrangement with people like this. We view such a relationship where we would be provided with misleading information by people waiting for us to fail and who would eventually close the entire fishery, ending centuries of careful fishing by Virgin Islands fishermen.

Summary:

All of these points have been raised with NMFS, CFMC and the SEFSC and subsequently ignored. In fact, NMFS seems to be determined to manage Virgin Islands fisheries by remote control with as little input from the Territory as possible.

In the past year alone, STFA members have spent around 7 man months attending various NMFS and CFMC meetings, mostly at our own expense. At no point, has any of our input been considered or affected any decision coming from the meetings. In large part, NMFS and SEFSC participants come to these meetings with their conclusions already determined.

The Virgin Islands is fortunate that our Delegate Donna M. Christiansen and Governor John P. deJongh Jr. have taken an active and advocative interest in our situation. The Delegate has attended many of the CFMC meetings and spent time with the fishermen on all of the Virgin Islands. Recently she applied for designation of the Virgin Islands as "Fishing Communities" under the Magnuson Act. Such designation would provide a requirement that the CFMC consider community and socio-economic impacts fully when implementing management measures. This would be a small step, but a significant one in requiring that our concerns be considered.

We wish to note that the Regional Director broached such designation at the April Council meeting.

It is our hope in providing this testimony; that NMFS can begin to realize that government should serve the public and the resource users not simply impose its will through setting arbitrary standards for inconvenient data sets. The best management decisions will come from collaboration between fishery managers and stakeholders.

We do not support application of Catch Shares in the Virgin Islands until such time as systemic problems within the NMFS/CFMC/Territorial Government nexus are resolved and we could be involved in a relationship with a trustworthy partner in guaranteeing sustainable management of Virgin Islands Resources.

Thank you for this opportunity to address the Committee today.

Response to questions submitted for the record by Julian Magras, Chairman of the Board, St. Thomas Fishermen's Association

Questions from Congressman Jay Inslee (D-WA)

1. This is the second hearing that we have had on catch share fishery management programs, so there has been a lot of discussion about catch shares. But I'm not sure we have heard from many witnesses that actually have participated in catch share programs. Can you tell me your experience fishing in a catch share program? Do you have a federal permit to fish in a catch share managed fishery?

Answer: There are no catch share fisheries in the Virgin Islands. Also, because we do not trust NMFS/NOAA we are unlikely to enter in to any such agreement.

Questions from Republican Members

1. What fisheries do your members fish in and what types of gears do they use?

Answer: St. Thomas Fishermen's Association members fish for reef fish, small pelagics, lobster and some queen conch. The primary gear are West Indian fish traps and plastic lobster traps with handlines and a small unique seine fishery making up the remainder.

2. How does NMFS collect data in your fisheries to determine harvest levels?

Answer: Data are provided through a mandatory catch reporting system and through port sampling. Both of these are funded by NMFS but implemented by the Territorial Division of Fish and Wildlife. Data has been collected since 1974 and reviewed annually by NMFS' South East Fishery Science Center. In 2009, the SEFSC decided that the data could not be used in setting ACLs and that local fishermen should be punished for "data uncertainty" by reductions in ACL values. It is our contention that any data uncertainty is the result of SEFSC and DFW failures as fishermen have met every requirement for reporting for nearly four decades. We are requesting your Subcommittee to investigate how agency failures can be translated into punishing fishermen.

3. Are any of your fisheries considered overfished? If so, do you agree with the determination?

Answer: In the 2005 Sustainable Fisheries Act Amendment a number of species were determined to be "overfished" and management actions taken (area closures and closed seasons) to address this supposed overfishing. No data from the Virgin Islands was used in this determination and "informed judgment" (read that as unsubstantiated opinion) was the supposed "process" used to make these determination. In every case, the "overfished" determination was intended to address a specific fishery issue including spawning aggregations, a Puerto Rican fishery for deep water snappers, conch and a St. Croix net fishery for parrot fish. All of these fisheries have been closed now for 3-5 years and yet the CFMC has taken no effort to reevaluate status. Our position is that the 2005 actions addressed overfishing and that these fisheries are no longer overfished (if they ever were in the first place).

In the April 2010 CFMC meeting NMFS' Regional Director unilaterally changed the entire management scenario and included all groupers, snappers and parrot fish into single management units even thought the bulk of affected species were not included in the "overfished" species units. In essence he co-opted and over rode five years of Council deliberations and decisions. The document was only provided to Council members at the meeting and they acceded to his scheme.

The only exception to this is the St. Croix conch fishery where serious overfishing led to a Territorial quota in 2007. To date, the CFMC has not implemented a compatible closure in Federal waters and this has seriously compromised Territorial efforts to manage this fishery.

4. Some fishermen have complained about the new accountability measures being implemented by NMFS. Do you also have concerns, and if so, what are your specific concerns? What suggestions would you give Congress to correct these concerns?

Answer: Since ACLs are not in place, we have yet to see Accountability measures. However, the current management scenario involves a 3 year delay by the SEFSC in analyzing Virgin Islands data so that fishermen will not have an opportunity to alter their fishing practices during any given season and avoid the need to accountability measures. Since we continue to see arbitrary and unfettered manipulation by the Regional Director, we expect that he will find an excuse to implement accountability measures as soon as he can justify action.

Additionally, current efforts to "improve" data collection have excluded fishermen from providing input and there is a very distinct likelihood that NMFS will find justification to discard future data, thereby leading to implementation of accountability measures.

A final comment. It is our position that the best management of Virgin Islands resources will come from collaboration between fishermen and fishery managers. We make this position at every opportunity but are rebuffed and insulted. The Virgin Islands community has strong cultural ties to local seafood and local fishermen and NMFS and the CFMC can look forward to a long and acrimonious struggle in the Virgin Islands until they wake up and change course.

Ms. BORDALLO. Thank you, Mr. Magras, for your testimony and explaining your concerns with catch shares in the Caribbean. Mr. Moody, please begin your testimony, and thank you for being here.

STATEMENT OF CAPTAIN WAYNE MOODY, FISHING VESSEL CAPRICCIO

Captain MOODY. Thank you. Good morning, Madame Chairwoman, honorable Members of Congress, fellow witnesses, and distinguished guests. My name is Wayne Moody, and I feel privileged to be here today to give testimony on catch shares from a community perspective.

I started commercial fishing out of Port San Louis, California in 1974. Our present boat is a 53-foot fiberglass trawler that my wife and I fish out of Morro Bay for salmon and albacore. I am on the board of the directors of the Morro Bay Commercial Fishermen's Organization. I hope to give the Subcommittee an understanding of Morro Bay's perspective regarding catch shares and our community's recommendations for critical elements of the West Coast trawl individual transferable quota, or ITQ, program that are necessary to address our concerns.

In 1985, approximately 15 million pounds of seafood products were landed in Morro Bay and its sister harbor, Port San Louis, 12 miles to the south—mostly groundfish, with an ex-vessel value of almost $19 million. By 2006, landings had dropped to 1.2 million pounds, with an ex-vessel value of approximately $2.9 million. In 2005, the Nature Conservancy, or TNC, entered into discussion with local trawlers and ended up purchasing their permits and idling them.

Without trawl landings, the new $900,000 icehouse we just built, our one fuel facility, and our fish dock, we are losing money. Our port infrastructure was about to collapse. Morro Bay was getting a preview of what consolidation of the trawl groundfish industry

might do to small coastal communities. Realizing our plight, TNC, along with fishermen and community leaders, started working together putting the permits back to work in and for the community.

The Central Coast Groundfish Project was started to establish a community-based fishing group to provide for long-term economic and ecological sustainability of the Morro Bay/Port St. Louis groundfish fishery. An exempted fishing permit, or an EFP, was obtained to use some of the permits with fixed gear that historically had been used. More importantly, the EFP tested out important elements for the then-underway West Coast trawl ITQ program by working with fishermen on gear switching, share and observer costs, improving log book performance, and testing of electronic monitoring systems.

I would be remiss in my obligation to my community if I didn't mention some of their real concerns about catch shares. Besides the concern about cost and availability of the permits, or the shares, and fleet consolidation, there is a concern of catch share owners scheduling and catching their groundfish around other fisheries in order to maximize their participation in those other fisheries. And once catch shares are allocated, then traded, leased, and sold, it will be very hard to change the program, especially in reference to ownership of the shares. It is basically a one-way street, and there is not much room to turn around.

We recognize the need to reduce fishing effort on weak stocks and to concentrate on the healthy stocks, and this is exactly what the EFP gear switching portion was meant to do—target specific healthy stocks while avoiding those of concern. Small ports needs the flexibility to anchor quota in communities with historic landings. Community fishing associations, or CFAs, can provide that protection and halt those communities from losing landings, port revenues, and employment in the transition to rationalization.

The huge costs in the West Coast ITQ program is the use of 100 percent observer coverage. The cost of $300 to $600-plus per day for an observer can only be paid by the larger vessels. One method proven in other countries, at one-third the cost of human observers, is the use of cameras. To make the West Coast trawl catch share program work for fishermen and small coastal communities, National Marine Fisheries needs to encourage and help facilitate at least these three things.

Number one, CFAs need to be properly formed, and regulations put in place in order for them to owe more than the individual quota share limits. This would allow them to stabilize their fishery economies. Number two, develop, certify, and appropriate funds for cost-effective, onboard electronic monitoring systems to be used by the small boat fleet. And number three, set aside adaptive management allocations and provide flexibility in catch share programs to allow for community impacts.

Thank you for allowing me to speak for my small coastal community.

[The prepared statement of Captain Moody follows:]

Statement of Wayne Moody, Member, Board of Directors, Morro Bay Commercial Fishermen's Organization

Good morning, Madam Chairwoman, Honorable Members of Congress, fellow witnesses, and distinguished guests. My name is Wayne Moody and I feel privileged to be here today to give testimony on Catch Shares from a Community Perspective.

I started my commercial fishing career out of Port San Luis, California in 1974 and have fished for sea urchins, abalone, crabs, rockfish, salmon, and albacore. Our present boat is a 53' fiberglass troller that my wife and I fish out of Morro Bay, California for salmon (regulations permitting) and albacore. I currently sit on the board of directors of the Morro Bay Commercial Fishermen's Organization, with approximately 90 members.

I hope to give the members of the Subcommittee an understanding of Morro Bay's perspective regarding catch shares and our community's recommendations for critical elements of the West Coast Trawl Individual Transferrable Quota (ITQ) program that are necessary to address our concerns.

I would like to begin by providing some background regarding Morro Bay's fishing community.

In 1985 approximately 15 million pounds of seafood products were landed in Morro Bay and its sister harbor, Port San Luis, with an ex-vessel value of almost $19 million. Much of the seafood delivered into Morro Bay and Port San Luis was groundfish that was harvested by smaller vessels using highly selective fixed gear.

During the 1980s, trawl fishing effort in our region increased, in part because of government subsidies that encouraged fishermen to increase their harvesting capacity. Trawlers displaced our local small boat groundfish fleet, and our fishermen either started trawling or moved into other fisheries. By the time of the Federal groundfish emergency declaration in early 2000, our ports were supported almost completely by trawl landings, and our local fleet had undergone dramatic consolidation. The severe reductions in groundfish allocations that followed were devastating. By 2006, landings had dropped to 1.2 million pounds with ex-vessel value of approximately $2.9 million.

In 2005, The Nature Conservancy (TNC) entered into discussions with some of the local trawlers on how to develop some new and sustainable approaches to the trawl fisheries. They petitioned the Pacific Fishery Management Council (PFMC) for the protection of 3.8 million acres off the California coast that would be set aside as Essential Fish Habitat (EFH) and where no trawling would be allowed. At the same time, TNC purchased the federal trawl permits and most of the vessels from local fishermen wishing to retire from the local trawl groundfish industry, a total of seven. Eventually, there were no local owner operated groundfish trawl vessels in the Morro Bay/Port San Luis area and TNC became a large holder of groundfish permits on the West Coast.

Morro Bay had just finished building a new $900,000 ice facility. A local fish dock had been sold to the city and leased to the Morro Bay Commercial Fishermen's Organization (MBCFO). But fish offloading in Morro Bay Harbor was drastically reduced and, despite receiving grants, the MBCFO was operating the dock at a loss. Dock workers were reduced to part time and on an as needed basis. Ice from the new ice house was being dumped periodically to keep the refrigeration equipment operational and in working order. The local fuel dock threatened to close because of lack of business. It became immediately obvious; the local Morro Bay community would suffer tremendously without the landings of groundfish from these vessels. This would have a ripple effect not only on the other groundfish gear types, but the entire community. The infrastructure that the fishing community depended on was on the verge of collapse. Morro Bay was getting a preview of what consolidation of the trawl groundfish industry might do to the small coastal communities.

Rather than just hold the federal groundfish trawl permits, TNC decided to lease them back to the community, with the condition that they would use more species selective gear to target certain stocks and reduce habitat impacts. Local fishermen, a conservationist NGO, and community leaders decided to do something different and we started working together on mutual goals. The Central Coast Groundfish Project was started as an effort to establish a community based fishing group to provide for the long term economic and ecological sustainability of the Morro Bay/Port San Luis region groundfish fishery. This wasn't, and still isn't, always easy. We went to the PFMC together and obtained an Exempted Fishing Permit (EFP) to use some of the permits in "gear switching" back to the type of fixed gear that historically had been used and which TNC considered environmentally preferred. More importantly for the subject today, the EFP tested out important future elements for the then underway west coast trawl ITQ program, by working collaboratively on gear switching, sharing observers costs, improving log book performance and testing

electronic monitoring systems, a vital element for small boat fleets who simply can't afford or accommodate 100% human observers. We also put one trawl permit back to work trawling under a modified habitat and gear plan, which is now being used in an innovative experiment to test trawl impacts on habitat.

Things are better now in Morro Bay but we are still in critical care. The increased quota for open access for the Conception area has really helped the Central Coast small boat fleet in the past year. The quota for sable fish in the Conception area went from 220 metric tons to 1300 metric tons, and the weekly allowable open-access landings went from 600 pounds to 1500 pounds. This increase in landing limits made it worth the approximate 40 mile round trip to the fishing grounds. However, this allocation can change with changes in the stock assessment. While in general West Coast fishing stocks are in recovery, recent petrale stock assessments appear to threaten the very viability of the existing trawl operation. We have recognized that changes need to occur, and are moving forward.

I would be remiss in my obligation to my community if I didn't point out some of their real concerns about catch shares. Many of our fishermen and our fishing community have some well-justified fears and concerns about our traditional fishing communities moving to catch shares.

There's the concern that quota or shares will be given to those "free of charge" who may at some time put them up for sale, or lease, to the highest bidder. Already, in the West Coast ITQ program, many who have been notified of their quota share, are looking for buyers or lessees. No longer will a fisherman be able to gain access to a fishery without purchasing quota at a large expense and then, only if it's available

These shares or quota will most likely be sold to those who already have shares, consolidating the fishery amongst a smaller select group. It has been estimated that in the proposed West Coast ITQ program that most of the shares will be held by 40-60 vessels. These vessels will most likely operate close to the few remaining processing plants causing more pressure on the "local" groundfish resources. While it might be necessary in some cases to accumulate share or quota in order to make operations more cost efficient, it will also have the negative impact of forcing out smaller operators. And what happens when the entire resource gets back to Maximum Sustainable Yield; will the entire West Coast trawl quota be in the hands of 40-60 owners?

While proponents of catch shares speak of the value of fishermen being able to plan on catching their quota to maximize the value of their catch, it also creates another concern. They can now schedule their groundfish season "around" other fisheries in order to maximize their participation in those other fisheries. Also, the proponents say that as the fishery becomes more efficient, fewer boats and gear are needed. Those once productive groundfish boats don't just disappear, they look for other fisheries to enter. Fishermen want to be productive members of their communities.

We hear the stories of fishermen turning into sharecroppers even if they are able to hold on to their own boats, paying out up to 70% of their landings proceeds to the holder of the fish allocation. I was recently told of one Canadian vessel that paid a lease fee based on the current fish price only to have the price drop when they delivered, thus losing money. Crew income declines because of leasing overhead expense; and many fishermen are forced to leave their native coastal communities because of lack of employment opportunity.

The Draft NOAA Catch Share Policy states that "Councils should periodically review all catch share and non-catch share programs. The intent is to ensure that management goals are specified, measurable, tracked and used to gauge whether a program is meeting its goals and objectives." Once catch shares are allocated, then traded, leased, and sold, it will be very hard for the councils to change the program, especially in reference to ownership of the shares. It's basically a one-way street and there's not much room to turn around.

We recognize that until some West Coast groundfish stocks are rebuilt, we need to reduce fishing effort on those stocks and concentrate on the healthy stocks. And this is exactly what the EFP gear switching portion was meant to do, target specific healthy stocks, while avoiding those of concern. Catch shares create a market that removes excess capacity from the fleet on a compensated basis, which helps achieve that goal. However, that very transition awards the value of the fishery to initial catch share recipients, and can make it more difficult and expensive for others to enter the fishery.

To address this problem, we need strong and enforceable accumulation limits that restrain consolidation and maintain diversity in the fishery. The PFMC has adopted quota share use limits that could result in as few as 40 or so vessels participating in the non-whiting groundfish fishery. We need effective regulations to prevent per-

sons with access to capital from directly or indirectly obtaining control over the fishery in excess of those limits. We also need room within those limits for Community Fishing Associations (CFAs) or cooperative arrangements to hold the amount of quota necessary to stabilize their fishery economies and support their costs of operation in smaller traditional groundfish harbors and coastal communities.

Catch shares can result in landings migrating from ports that have a history of engagement in and reliance on the fishery to those that have infrastructure or market access advantages. To address this problem, we need a method for anchoring quota in communities with a history in the fishery. CFAs can provide that anchor, and protect those communities from losing landings, port revenues and employment in the transition to rationalization.

Catch shares can result in fishermen being individually accountable for their share of the fishery, which gives them the incentive to be good resource stewards. However, the cost associated with monitoring each fisherman's harvest can be a very heavy burden, especially for small, fixed gear boats. Already, all boats that harvest groundfish must carry a Vessel Monitoring System that periodically transmits their position to National Marine Fishery Service (NMFS). The cost of this service is paid by the vessel and runs about $50-$60/month. However, the huge cost in the West Coast ITQ program is the use of 100% observer coverage. At present there is the "proposal" for the federal government to pay for 90% of the observer coverage for the first year, but we are very concerned about what happens after that period. The cost of $300-$600/day for an observer can only be paid by larger vessels. While human observer coverage creates jobs, there needs to be some common sense used and other options explored. One such method is the use of cameras that would be in operation while the vessel is actively engaged in fishing, hauling gear, and landing fish. It is estimated that the use of cameras for onboard monitoring could reduce the cost to 1/3 of human observers.

So the real question is will the West Coast catch share program, which is on the verge of implementation, work for fishermen and communities that rely on these family owned businesses for identity and economies.

To make it work the NMFS needs to encourage and help facilitate at least these three things:

1. Community Fishing Associations need to be properly formed and regulations put in place in order for them to hold more than the individual quota share limits. This would allow them to stabilize their fishery economies.
2. Develop, certify and appropriate funds for cost-effective on-board electronic monitoring systems to be used by the small boat fleet.
3. Set aside adaptive management allocations and provide flexibility in catch share programs to allow for community impacts.

Thank you.

City of Morro Bay
HARBOR DEPARTMENT
1275 Embarcadero
Morro Bay, CA 93442
Ph: (805) 772-6254
Fax: (805) 772-6258

January 27, 2010

The Honorable Jane Lubchenco
Undersecretary and Administrator
National Oceanic and Atmospheric Administration
1401 Constitution Ave. NW
Room 5128
Washington DC. 20230

Dear Dr. Lubchenco:

The City of Morro Bay highly values the cultural and economic benefits derived from local sustainable fisheries. As you know we have been striving to work with new partners on innovative ways to preserve our working waterfronts and promote healthy fisheries and ocean environments. We are also very proud of our fishermen's role in providing healthy and high-quality food options for the U.S. consumer.

Thank you for taking the time on Saturday, October 24, 2009 to meet with the partners in the Central Coast Groundfish project in Monterey, California. We can only imagine how intense the demand for your time is, and in this community we

have noted your interest in our work and commitment to transitioning our fisheries into the future.

Small working harbors on the West Coast are in crisis. The regulatory framework for fish will ultimately lead to even more healthy fish stocks in our country, but we do not have the right pieces on the board now to ensure another generation of professional fishermen or continuation for our small working harbor infrastructures.

We are encouraged by your December 9, 2009 marine spatial planning interim framework in hopes that this is a step to secure sustainable and predictable access to our healthy fish stocks so that our businesses can plan for the future and attract a new generation of commercial fishermen. Frankly we are a little frightened too, since we see that it will take monumental leadership on both sides to forge a better way to manage fisheries than constantly restricting access based on overfished species stock assessments that often seem to have little relevance on regional stocks.

The kind of leadership that you and The Nature Conservancy are demonstrating. Hopefully more and more of us can set aside our fears in the future and concentrate on the opportunities in change. We want to take just a minute to support the points outlined in the attached letter from The Nature Conservancy to you of November 2, 2009 regarding the West Coast Trawl IFQ program. A Safe Harbor provision in the West Coast Trawl IFQ program for Community Fishing Associations that are a legitimate community stability effort is a tool that is needed. Also creating affordable alternatives to human observers for groundfish fishermen is paramount to our survival, indeed no matter what else is done, the West Coast Trawl IFQ program will be a failure in our communities if small boats do not have an economically sustainable regulatory framework. We have committed to work on these issues. Please let us know if there is anything we can do to help you. We wish you well in your difficult voyage, and you have a standing offer of the grand tour of Morro Bay harbor any day, any time.

Andrea Lueker
City Manager

Rick Algert
Harbor Director

cc: Honorable Lois Capps
Frank Lockart

City of Morro Bay
Morro Bay, CA 93442
(805) 772-6200

March 8, 2010

Honorable Lois Capps
1707 Longworth Building
Washington, DC 20515

Re: Funding for West Coast Groundfish Catch Share Management Program & Key Issues for Local Fishing Communities

Dear Lois:

The City of Morro Bay is a partner in the Central Coast Groundfish Project (CCGP), an effort by our local fishing industry, community and conservation interests to reform our traditional groundfish fishery to more economically and environmentally sustainable practices. Our non-traditional partnership has put aside past differences to focus and work together towards shared objectives, specifically:

1. Preserve heritage and economic contribution of local fishing industry.
2. Retain access to resource and create stable economically viable fishing opportunities.
3. Develop fishery practices that protect marine habitats and reduce bycatch & waste.

In November of 2008, The Pacific Fisheries Management Council (PFMC) voted to transition this fishery to Individual Fishing Quota (IFQ) management. This fundamental change in management will have large impact on the future of this important and traditional fishery for Morro Bay and many other California fishing communities. The CCGP partnership is making changes to the harvest and marketing model of our fishery to help it adjust and remain viable within the new IFQ management structure.

It is crucial for the CCGP, as well as all other interests in this fishery, that the new IFQ management structure be designed and implemented properly, which will require the resources and effort of both the federal government and fishery stakeholders. The CCGP partnership has been deeply engaged with the PFMC to encourage the adoption of key IFQ terms and conditions that are critical to the ability of our community and partnership to achieve its goals. While we have made significant progress and our unique partnership has developed a strong voice within the PFMC, there are still critical IFQ management terms that have not yet been adopted. Those include:

1. Electronic Monitoring for non trawl boats—given our port's loss of large processing facilities, changes in the seafood market and our interest in improving the environmental performance of the fishery, we have transitioned a significant portion of our traditional bottom trawl fishing effort to hook & line and traps. These lower volume/overhead fishing operations allow us to harvest fish in a premium quality condition and access higher value markets. IFQ management will require full catch accountability and reporting. Our partnership and other interests in the industry are encouraging the use of electronic monitoring (video cameras) for hook & line and trap vessels. This type of monitoring has proven effective in other fisheries and its lower cost is essential for our new fishery model to be economically viable. In addition, many of the family owned fishing businesses in Morro Bay simply do not have physical room on their vessels to adequately accommodate crew and human observers. Now is the time when available funding must be used to restart an experimental electronic monitoring program our partnership began two years ago but had to drop due to cost considerations.
2. Community Fishing Associations (CFA)—the CCGP partnership is encouraging the IFQ management structure to allow qualifying community-based entities to hold quota in amounts higher than the individual ownership cap. This would allow such an entity to anchor quota in small port communities that are most vulnerable to the market forces of quota consolidation.

It is clear to our partnership that the development of the new IFQ management program that includes these important community and conservation design elements will necessitate appropriate federal funding. For this reason, the City of Morro Bay requests that you support allocations from federal funding appropriations set aside for the establishment of catch share fishery management to the West Coast Groundfish Trawl IFQ. Furthermore, we respectfully request that we begin a dialogue between your staff and CCGP representatives to identify ways in which we can work together to encourage the National Marine Fishery Service and the Pacific Fisheries Management Council to adopt the above-identified IFQ management terms that will help protect small fishing community interests and transition the fishery to greater economic and environmental sustainability. For example, we stand ready to work with NMFS on electronic monitoring to ensure survival of small boat fleets and traditional coastal fisheries in California communities. As always, thank you very much for your time and consideration in this critical matter.

Sincerely,

Janice Peters
Mayor

City of Morro Bay
Morro Bay, CA 93442
(805) 772-6200

October 29, 2007

Mr. Donald K. Hansen, Chairman
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 101
Portland OR 97220-1384

RE: TRAWL RATIONALIZATION ALTERNATIVES—REQUEST TO RETAIN THE ADAPTIVE MANAGEMENT TRUST OPTION FOR THE GROUNDFISH TRAWL FISHERY

Dear Chairman Hansen and Members of the Pacific Fisheries Management Council,

Morro Bay, California (population 10,000) is a coastal community with long and deep ties to fishing. Our local fishing industry is constantly exploring proactive ways

to improve fishing methods and maintain viability for this industry in response to on-going changes in regulations.

With this in mind, in the upcoming DEIS for the groundfish trawl fishery, we ask you to retain for analysis the adaptive management trust option, which could help meet adaptive management and public trust objectives. This mechanism, which would be funded by holding back a small portion of the quota, will serve as an insurance policy for the program and will help to enable the social and conservation goals to be met.

While adoption of an individual quota program may create significant economic benefits, we are seriously concerned about potential negative economic impacts to the viability of small ports and harbors if trawling activity were consolidated to a few "buyer's markets" or offshore.

We are also concerned about unanticipated impacts that arise whenever there is a major shift to a new management system. An alternative capable of addressing known concerns, as well as remedying unanticipated impacts that the current alternatives are unprepared to address, would help ensure that the transition to the quota system creates tangible benefits for the greatest number of people.

Please retain for inclusion in the analysis this alternative capable of meeting adaptive management and public trust purposes, which will enhance the program's ability to meet important social and ecological objectives.

Sincerely,

Mayor Janice Peters
City of Morro Bay

cc: Morro Bay City Council
City Manager
Environmental Defense

Response to questions submitted for the record by Captain Wayne Moody, Fishing Vessel Capriccio

Questions from Congressman Jay Inslee (D–WA)

1. **This is the second hearing that we have had on catch share fishery management programs, so there has been a lot of discussion about catch shares. But I'm not sure we have heard from many witnesses that actually have participated in catch share programs. Can you tell me your experience fishing in a catch share program? Do you have a federal permit to fish in a catch share managed fishery?**

Answer: No, I do not participate in a "Catch Share" managed fishery. The fisheries on the west coast have never been managed under this type of plan. And looking at the current cost of approximately 4–8 times the value of the fish product to buy into other "Catch Share" fisheries (Alaska halibut and sablefish), I doubt I will ever be able to participate in one. Our community has historically depended on groundfish for local jobs and support of our marine dependent businesses. The Trawl sector in West Coast Groundfish is scheduled to go under a "Catch Share" program on Jan. 1, 2011. Because securing access to plentiful groundfish stocks in our area is critical to being able to maintain infrastructure and the economic/cultural value of our working waterfront, community representatives, trawl permit holders and groundfish fishermen have been actively involved in the development of the West Coast Trawl ITQ program for over five years. We have investigated examples of "Catch Share" programs in Alaska and internationally and feel that concerns about community stability need to be considered in making sure that future catch share programs are well designed.

Questions from Republican Members

1. **You note in your testimony that you fear the groundfish fishery may be made up of only 40–60 vessels under the IQ plan. How many currently are in the fishery and at the current quota levels what would be the optimum number of vessels for all of the vessels to be economically viable?**

Answer: The answer to this question would depend on the size of the vessels that are involved. their type and cost of operation, and if it was owner operated. The Pacific Fishery Management Council/National Marine Fishery service staff has projected that west coast trawl vessels will go from approx. 120 active trawl operations (there are actually about 170 trawl permits on the west coast, but many are inactive currently) to 40–60 under the trawl ITQ program on the west coast. Six of the over eighty commercially harvested groundfish species are currently listed as overfished,

and management of those overfished species under the precautionary principle drives a very restrictive management system on the West coast: for example to protect certain of those overfished species a Rockfish Conservation Area (RCA) prohibits Fishing in 30 to 150 fathoms from Mexico to Canada. Unfortunately, with these spatial closures and the current 60 day quotas set using the precautionary principle, again driven by the need to rebuild a few "overfished " or "species of concern" the current management system cannot support even the existing active permitees. One benefit of the West coast trawl ITQ program is that some fishermen may be able to obtain Quota Pounds and target certain healthy stocks with gear other than trawl, which may allow many of the currently inactive trawl permits to be used. Under this "gear switching" scenario we could see up to 150 separate fishing operations being supported on a seasonal basis in the West coast trawl ITQ program, if the program is well designed with allowance for cooperative arrangements in community fishing associations, and using electronic monitoring instead of 100% human observers.

2. What do you suggest should be added to the trawl IQ plan to ensure more favorable community protections? Were community protection concerns raised and dealt with during the Council deliberations?

Answer: The PFMC needs to support the 10% holdback of quota pounds for community stability issues, and develop the details of that program so that it is effective in providing mechanisms for new entrants, and tying Quota pounds to historical groundfish ports to avoid consolidation out of those ports. The PFMC needs to develop and approve and implement the Community Fishing Association concept so that groups now forming in places like Morro Bay can work within the rules in attempting to tie quota to our area. NOAA needs to budget for and support cost effective electronic monitoring systems so small boat fleets can be economically viable in the Trawl ITQ program.

3. You and Mr. Dooley both note the costs associated with the 100% observer coverage required in the trawl IQ plan. Why did the Council determine that 100% coverage was necessary? Is this level of coverage necessary for the life of the program or will this level of coverage be reduced as time goes on?

Answer: The goal is full accountability, and since human observer programs are already in place NOAA has assumed the default position that the only known system for full accountability is 100% human observers. Electronic monitoring systems are in place and effective in Canada, and if Canada can do it so can we. We are not unsympathetic with NOAA's personnel who have a huge workload in implementing this catch share program on a very ambitious schedule, and are resistant to a "new" system, but this point is critical in the survival of small boat fleets historically operated out of smaller west coast communities.

4. The Magnuson-Stevens Act allows for regional fishery associations which sound very similar to your suggestion of Community Fishing Associations. Did the Pacific Council examine this authority for use in the trawl IQ plan?

Answer: RFA's and CFA's have been discussed and investigated to some extent by the Pacific Council, however at this time finalizing action on creating a RFA/CFA program description is not even formally on their agenda this year. We are asking the PFMC to put this item on their agenda for their Sept. 2010 meeting, but we are not yet assured that it will be. The biggest challenge is that we support strong and effective control limits/ownership caps in Catch share programs to avoid consolidation and excessive market control, BUT, by their nature a community fishgig assoc. represents a group of people cooperatively managing Quota, which probably violates any strong control limit. We have worked with The Nature Conservancy on a suggested program description in an effort to assist the PFMC and attached for your information is a white paper "control Rule and Collective Arrangements": that was submitted to the PFMC at a CFA agenda item discussion in March of 2010. We will continue to work with the PFMC to adopt an effective CFA/RFA trailing amendment, but it must be done this year, before the actual Catch share program is implemented.

Ms. BORDALLO. I thank you very much, Mr. Moody, for being here today and to help us understand Morro Bay's perspective regarding catch shares.

Mr. Angers, you may now begin your testimony.

STATEMENT OF JEFFERSON ANGERS, PRESIDENT, CENTER FOR COASTAL CONSERVATION

Mr. ANGERS. Good morning, Madame Chairwoman, Mr. Brown, and members of the committee. My name is Jeff Angers. I am the president of the Center for Coastal Conservation. I am a native Louisianian and a recreational fisherman. My testimony this morning is presented on behalf of my organization, the American Sport Fishing Association, the Coastal Conservation Association, the International Game Fish Association, the National Marine Manufacturers Association, and the Bill Fish Foundation.

In the toolbox of fishery management tools, catch shares are a tool. Implementing catch shares, as we are talking about this morning, in commercial-only fisheries can be a useful tool for managing harvest. But catch shares are an inherently inappropriate tool for recreational fisheries. In mixed use fisheries, where there are both recreational and commercial components, such exclusive fishing rights proposals maximize benefits to the commercial fishing industry while ignoring the participation, conservation value, and economic contribution of recreational fishing.

NOAA's Draft Catch Share Policy currently lacks the necessary guidance to protect the recreational sector from adverse impacts associated with the implementation of any catch share policy. With the cascading impacts of fishery restrictions and closures across the country currently underway in key fisheries, the protection of the recreational sector should be a priority for the Congress, and for NOAA Fisheries as it develops any new overarching policy on catch shares.

At a very minimum, NOAA should ensure, number one, that vital socioeconomic information on recreational fisheries is gathered prior to the issuance of any policy; number two, that they undertake a reevaluation of allocations prior to implementing a commercial catch share system; and number three, that they allow inter-sector transfers of catch shares through mechanisms that ensure equitable access to the recreational sector.

According to NOAA Fisheries, the recreational fishing sector contributes over $82 billion in sales, $24 billion in income, and provides 534,000 jobs. Compare this to domestic commercial landings of fin fish in the U.S.: $28 billion in sales, $12 billion in income, and 423,000 jobs. The recreational sector is as significant in the commerce mission of NOAA as the commercial fishing sector, although it is at substantially lower environmental costs.

Our economic contribution is provided with much less impact on the resource. Recreational harvests account for only 3 percent of fish harvested. Commercial harvests account for 97 percent of fish harvested.

I want to speak to reallocation for a moment. The Councils and NOAA Fisheries have a long and unfortunate history of not addressing sector allocation. However, if one of this Administration's national policies will be to promote a system that provides the commercial sector with an inherent advantage to accessing a fishery, it can no longer be business as usual. NOAA must face the allocation challenge head on through its catch share policy. Otherwise, the existing allocations guarantee inequitable and harmful treatment of the recreational sector.

I might call your attention to the comments of Dr. Jane Lubchenco offered Friday at NOAA's recreational fishing summit. She said, quote, in speaking to the recreational sector, "You have pointed out that changes in demographics and economics should be fairly considered in allocations, and that no one sector should be guaranteed a specific, permanent allocation. I agree," she said. We thought those were very hopeful remarks, as we view—as we anticipate a final policy forthcoming. Without a meaningful reevaluation of existing allocations for fisheries considered for catch shares, our organizations must, and will, strongly oppose the implementation of the policy.

As to inter-sector transferability to ensure the minimal adverse economic impact on the recreational sector, any formal policy should provide for inter-sector access to catch share as a way of reallocating and ensuring free market access. The clear assumption of NOAA's draft policy is that this portion of the quota is dedicated to the commercial sector for a time uncertain, regardless of any economic or demographic changes. This puts the recreational sector at an immediate disadvantage that we believe must be remedied. Consideration of inter-sector transfers ought to be a mandatory part of any analysis.

One final comment. Many believe that catch shares are a panacea. Some will convince you that they will solve all problems, perhaps even bring about world peace. Listen carefully to their arguments. For instance, you might be tempted to believe that catch share systems in the Gulf red snapper fishery increase the total allowable catch by 30 percent in just one year. When you hear such assertions, remind the blind loyalists to catch shares of other tools in the toolbox, like reductions in shrimp trawl bycatch from the use of better technology. Remind them of hurricanes named Katrina, Rita, and others that devastated the Gulf fishing fleets, both recreational and commercial. Catch shares are a tool in the toolbox, nothing more and nothing less.

Thank you again, Madame Chairman, for the opportunity to comment this morning.

[The prepared statement of Mr. Angers follows:]

Statement of Jefferson M. Angers, President, Center for Coastal Conservation, on behalf of the Center for Coastal Conservation, American Sportfishing Association, Coastal Conservation Association, International Game Fish Association, National Marine Manufacturers Association, and The Billfish Foundation

Good morning Madame Chairwoman. My name is Jeff Angers, and I am the president of the Center for Coastal Conservation. I am native Louisianian and a recreational fisherman. I would like to thank you for this opportunity to address the Committee as it discusses community perspectives on catch shares.

My testimony today is presented on behalf of my organization, American Sportfishing Association, Coastal Conservation Association, International Game Fish Association, National Marine Manufacturers Association and The Billfish Foundation.

Our organizations appreciate that implementing catch shares in commercial-only fisheries can be a useful tool for managing harvest, however they are an inherently inappropriate tool for recreational-only fisheries.

We have serious concerns about the potential impact of commercial catch shares on the recreational sector in mixed-use fisheries (in which there are both recreational and commercial components). Our organizations respectfully submit that the Draft Policy Catch Share Policy of the National Oceanic and Atmospheric Administration under consideration lacks the necessary guidance to protect the rec-

reational sector from adverse impacts associated with the implementation of a catch shares policy in mixed-use fisheries.

Given the cascading and substantial impacts of fisheries restrictions and closures currently underway in a number of key recreational fisheries, the protection of the recreational sector should be a priority for the Congress—and for NOAA Fisheries as it develops any new overarching policy on catch shares. At a minimum, NOAA should ensure that vital socio-economic information on recreational fisheries is gathered prior to the issuance of any final policy; undertake a re-evaluation of allocations prior to implementing a commercial catch share system, and allow inter-sector transfers of catch share quota through mechanisms that ensure equitable access to the recreational sector.

In mixed-use fisheries where there is a large and growing recreational sector, exclusive fishing rights proposals maximize benefits to the commercial fishing industry while ignoring the participation, conservation value and economic contribution of recreational fishing, which totals $80 billion and provides over half a million jobs—an economic impact equal to or greater than commercial fishing economic impacts.

Catch shares in mixed-use fisheries are viewed by recreational fishermen as permanently setting quotas, which in sustainable fisheries impedes and ultimately retards growth for the recreational sector. Freezing fisheries participation is directly contrary to sustaining recreational fishing development and encouraging a greater conservation ethic.

We recommend that the following principles should be included in the national catch share policy.

Thorough Economic Impact Analysis on Recreational Sector

The implementation of a catch share system is intended to make significant changes in the operation and benefit distribution in the commercial sector of the fishery. By its very nature it will have an impact on every other sector of the fishery. As part of its advocacy for the increased use of catch shares, NOAA Fisheries frequently points to a very laudable goal—achieving the full economic value of the commercial sector. However, the goal should not come at the expense of the recreational sector. Instead it should be the policy of NOAA to maximize the economic potential of an entire fishery, including the recreational sector. According to NOAA Fisheries, recreational fishing contributes about $80 billion to the nation's economy annually, which is roughly equal to the commercial sector, while accounting for 54% of the jobs (in domestic fin fishes) and only three percent of the catch. NOAA Fisheries needs to recognize this contribution and place equal investment in thoroughly analyzing the economic impacts of catch shares on all the sectors in the fishery prior to the initiation of a catch share system.

NOAA's Draft Catch Share Policy states that, "Instances where such impacts are reasonably foreseeable, Councils and NOAA should evaluate the effects of catch shares on all sectors associated with the fishery, regardless of whether they are in the catch share program" (p. 5). However, a full-fishery evaluation should be undertaken regardless of whether or not the councils reasonably foresee an impact on the recreational sector. This analysis should include the economic contribution of industries directly related to a recreational fishery and relevant downstream economic impacts, including boat sales, marina activity, boat construction and repair, fishing gear and tackle sales, hotels, restaurants, grocery stores and other peripheral businesses and industries.

Updated Sector Allocation Prior to Catch Share System

Once councils and NOAA Fisheries have the necessary economic information, councils should then undertake a review of current allocations for any mixed-use fishery under consideration for a catch share program. Catch share systems are put in place using a "snapshot" of the economic contribution and catch history of a fishery. It is incumbent upon the regional council and NOAA Fisheries to ensure that this snapshot is up-to-date and equitable prior to moving forward with a catch share program. Rather than relying on a snapshot of the past, we believe NOAA Fisheries has a stewardship obligation to position these resources to provide a better future.

Any final policy should include guidance requiring regional councils to review the current allocations to determine if it is consistent with the best use of the resource for the nation as a whole. If the allocation is deemed not to be in the best interest of the nation as a whole, a reallocation should be conducted by the regional council.

The councils and NOAA Fisheries have a long and unfortunate history of not addressing sector allocation. However, if one of the Administration's national policies will be to promote a system that provides the commercial sector with an inherent advantage to accessing a fishery, it can no longer be business as usual. NOAA must

face the allocation challenge head-on through its Catch Share Policy otherwise the existing allocations guarantee inequitable and harmful treatment of the recreational sector.

If a meaningful reevaluation of existing allocations is not undertaken for fisheries considered for catch shares, our organizations will strongly oppose the implementation of the policy.

The catch share policy should include a requirement that periodic reviews (not to exceed three years) of the allocation should be part of the design of the catch share system to ensure that the fixed regulatory allocation reflects the best interests to the nation of the use of the resource.

Provisions for Inter-Sector Transferability

Our final recommendation to ensure minimal adverse economic impact on the recreational sector is to provide for inter-sector access to catch share as a way of reallocating and insuring free market access. The clear assumption of NOAA's Draft Policy is that this portion of the quota is dedicated to the commercial sector, for a time uncertain, regardless of any economic or demographic changes. This puts the recreational sector at an immediate disadvantage that must be remedied.

Consideration of inter-sector transfers ought to be a mandatory part of any analysis.

There are many key components that should be part of inter-sector transferability. First and foremost, commercial quota holders should not be permitted to lease quota for the long-term or permanently. Such a scenario would equate to a commercial fisherman retiring off the benefits acquired from a common property resource. Fishermen should be required to either fish their quota for the long-term or sell it to a party willing to take advantage of the opportunity.

In addition, NOAA should provide guidance to councils on how to permit state-established entities to purchase quota on behalf of their citizens. States have a long history of fishery management and, on the whole, a trusted relationship with recreational anglers. Providing them with the ability to purchase quota on behalf of their angling public will help to maintain public access to a public resource, while promoting sound fisheries conservation. In addition, recreational fishing data collection could be improved through the states. Such a mechanism will help alleviate any inherent negative impacts on the recreational sector, especially if the councils and NOAA Fisheries are unwilling or unable to achieve sector reallocation that most accurately reflects the full economic value of a fishery.

Should a state be allowed to purchase commercial quota on behalf the recreational fishing community, a process should be established to provide transparency to recreational anglers. Transfers to states for recreational fishing should be managed under the same regulations that otherwise apply to the recreational fishery. It must also ensure fairness among all anglers to avoid further allocation fights regarding the state-held quota. We recommend that NOAA undertake pilot projects in the Gulf of Mexico and Southeast Alaska to test the merits of inter-sector transferability.

Thank you again for the opportunity to comment on community perspectives on catch shares. It is our goal to ensure that any forthcoming policy recognizes and protects the economic contribution of the recreational fishing and boating industries. We would like to work with the Subcommittee toward that end.

Madame Chairman, that concludes my testimony, and I would be happy to take questions.

About our organizations...

The Center for Coastal Conservation (Center) is a coalition of the leading advocates for marine recreational fishing and boating. It is dedicated to promoting sound conservation and use of ocean resources by affecting public policy through the political process.

The American Sportfishing Association (ASA) is the sportfishing industry's trade association, committed to looking out for the interests of the entire sportfishing community. We invest in long-term ventures to ensure the industry will remain strong and prosperous as well as safeguard and promote the enduring economic and conservation values of sportfishing in America. ASA also represents the interests of America's 60 million anglers who generate over $45 billion in retail sales with a $125 billion impact on the nation's economy creating employment for over one million people.

The Coastal Conservation Association (CCA) is a national recreational fishing membership organization of some 100,000 members and is organized to do business is 17 States on the Atlantic, Gulf of Mexico and Pacific Coasts. It has been actively involved in the majority of the nation's marine resource debates since its inception in 1977. Its membership is composed of recreational fishermen who fish for every

important marine recreational fish available in the EEZ. CCA brings not only an educated perspective on how to fish, but a conservation ethic which recognizes the value of recreational fishing as a pastime and obligation to take care of the resource and use it to the best benefit to the nation.

The International Game Fish Association (IGFA), is a 70 year old world renowned not-for-profit organization committed to the conservation of game fish and the promotion of responsible, ethical, angling practices through science, education, rule making and record keeping. IGFA accomplishes its mission by enlisting the voice of over 300 official IGFA representatives in nearly 100 countries, and more than 15,000 angler-members around the globe.

The National Marine Manufacturers Association (NMMA), the nation's leading marine industry trade association, represents nearly 1,600 boat builders, engine manufacturers, and marine accessory manufacturers who collectively produce more than 80 percent of all recreational marine products made in the United States. The U.S. recreational marine industry contributes more than $30 billion in new retail sales and 300,000 jobs to the economy each year.

The Billfish Foundation (TBF) is dedicated to conserving and enhancing billfish populations around the world. The non-profit organization is an effective advocate for international change, synthesizing science and policy into fishery management solutions. By coordinating efforts and speaking with one voice, TBF is able to work for solutions that are good for billfish and not punitive to recreational anglers.

Response to questions submitted for the record by Jefferson Angers, President, Center for Coastal Conservation

Questions from Congressman Jay Inslee (D–WA)

1. This is the second hearing that we have had on catch share fishery management programs, so there has been a lot of discussion about catch shares. But I'm not sure we have heard from many witnesses that actually have participated in catch share programs. Can you tell me your experience fishing in a catch share program? Do you have a federal permit to fish in a catch share managed fishery?

I have never been a participant in a catch share program.

Questions from Republican Members

1. A number of witnesses have discussed the need for better data collection. The 2007 Magnuson-Stevens Act reauthorization requires NMFS to develop a better data collection program for recreational fisheries. Do you believe this effort will yield better recreational harvest data?

I am hopeful that it will ultimately yield better, more accurate data. I am disappointed that the congressionally mandated deadline of January 2009 came and past without the new data collection system in place. It is still not in place.

2. NOAA lists four stocks in the Gulf of Mexico that are overfished and which are experiencing overfishing (red snapper, greater amberjack, gag, and gray triggerfish). Do recreational fishermen participate in these fisheries and what percentage of the harvest is caught by recreational fishermen? Do you agree with NOAA's determinations that these fisheries are overfished? What would actions are being taken to address these fisheries and do you agree with the actions being taken?

While the four species are overfished and have not recovered completely, actual overfishing has stopped and the appropriate annual catch levels are being used to allow for a timely recovery. The best science indicates these species are overfished, although that science is always based on catches from several years in the past. The bag limits, size limits and seasons seem appropriate measures to manage the fishery.

3. Do you agree with the concept of each sector in a fishery being accountable for its harvest level and if overfishing takes place, that the sector should be required to "pay back" that overage?

I believe the commercial and recreational sectors should stay within their allowed harvest levels. Because the data collection for the recreational sector is flawed and often has high margins of error, it is best if recreational overages and underages are averaged across a three to five year period and adjusted accordingly.

Ms. BORDALLO. I thank you, Mr. Angers, for being here today, and I will now recognize Members for any questions they may wish to ask, beginning with myself.

My first question is for you, Captain Goethel. In your view, what specific changes could be made at this point to remedy the unfair and inequitable allocations between recreational and commercial fishers, and amongst commercial fishers in the New England groundfish fishery?

Captain GOETHEL. Quite frankly, I think what needs to be done is it needs to be remanded back to the Council with clear guidance from the National Marine Fisheries Service to observe National Standard 4, and put everybody on a common baseline. It is quite obvious to me. I think the other thing that needs to be done is that they need to be reminded that there is National Standard 8, and that these allocations have a big effect on communities.

One thing in New England, if we had had an IFQ program, it would have required a referenda, and in order to get people to vote for the referenda, you have to get 80 percent of the people that catch 20 percent of the fish to get enough fish to feel like it is in their best interest to vote for it. In New England, this was a straight resource grab, nothing more, nothing less. Eight percent of the people here are probably going to be made instant millionaires on May 1st, and 92 percent of the people are going to be virtually thrown out of the fishery.

That wouldn't have happened if they had to have a referenda. So, by NOAA declaring that this was not a lap, that it didn't require a referenda, they almost sealed the fate of all of these small boats.

Ms. BORDALLO. Thank you. My next is for Julian Magras from St. Thomas. Today and in the past, you have characterized NMFS has having a lack of understanding of the Virgin Islands culture and a disregard for the fishing community. How do you think basic communications can be improved to remedy this situation?

Mr. MAGRAS. Well, I think one of the keys to the whole process is when they are setting rules and guidelines, that the stakeholders, which are the fishermen, need to be in the process from the beginning. We have been involved with them for the last five years. We sit down with real concerns to the table. They say yes to everything, "Oh, we are going to fit it in." And then when you see proposals come forward, a lot of our ideas that we have presented are not there.

A perfect example is the annual catch limit process. We have been looking at a document for the last two years, and the document has been about 25 pages long. And at this last April meeting, they produce the final draft to go to public hearing of the ACL document, and it was 315 pages long. And it was given to us just a week before the meeting. That was very difficult for the association to sit down and go through and analyze everything that they added to the process. And while at that meeting, they sat down and went through it, and the Council members didn't understand, because they didn't have access to the document until the same time that we did, which was a week. They went ahead and approved the document to move forward to public hearings. And that creates a big problem in the Virgin Islands.

Ms. BORDALLO. Thank you. Thank you very much. Captain Moody, your community's concerns about moving to catch shares are familiar to us now, including fears about consolidation of quota amongst the highest bidders, and the financial hurdle facing new entrants into the fishery. Why is it so important to anchor quota in fishing communities?

Captain MOODY. Thank you, Madame Chair. I think that with this deal we have been going through with the Nature Conservancy, when they came in and purchased the trawl permits from the local trawlers, and we saw that all of a sudden our local infrastructure was in trouble—and even though we were getting some grants to fund some of the fuel dock and unloading dock, we still were not able to get enough fish across the dock to keep those pieces of the infrastructure viable. And so we realized that we have to have groundfish landings in our harbor in order for our infrastructure to be viable.

One of the reasons to anchor quota in our community, especially if we can anchor it there by some community fishing association or permit bank, then that would stay in the community in perpetuity. It would not have the chance to be balled up by some speculator in some other community and moved out of the community.

Ms. BORDALLO. Thank you. And my final question is for Mr. Angers. What types of socioeconomic information on recreational fisheries should be collected? Is NOAA collecting any of that data already, and why is this data important in the development of catch share programs?

Mr. ANGERS. Yes, ma'am. Sadly, NOAA's data collection functions are woefully lacking, not just in fisheries stock assessments, not just in angler data, but also in socioeconomic data. Recently, the South Atlantic red snapper fishery was closed in January of this year. Part of the requirement that the agency was faced with was to analyze the socioeconomic impacts to coastal communities. They didn't have any of the data, and so they reported, we don't have the data, so we are just not going to consider it, and they proceeded with the closure.

That was a particular disappointment to the thousands of businesses, from North Carolina to Cape Canaveral, who were drastically affected. And one of our friends at the American Sport Fishing Association decided that if the agency was incapable of collecting the data, then ASA would collect it themselves. And they sent out surveys to 3,200, 3,200 small businesses in coastal communities from North Carolina to Cape Canaveral to ask them to assess what the economic impact of the red snapper closure was going to be.

It would seem like when the agency is statutorily required to consider the data, and they don't, that is a problem for us.

Ms. BORDALLO. Thank you very much. And now I would like to recognize the Ranking Member, Mr. Brown, for any questions he may have.

Mr. BROWN. Thank you, Madame Chair, and thank you, gentlemen, for being here today. And I hope that we can bring some resolve to this issue before it is too late. Didn't you say the deadline is like May 1st?

Captain Goethel, Dr. Rothschild predicted that there will be a 50 percent drop in employment due to the new sector system. Do you think he is accurate?

Captain GOETHEL. I think he is optimistic. I think it is going to be greater than that. I think the first year, a number of people are going to try to kind of hang on for a year to see if somebody straightens this mess out. But by year two, I think you can see more like 80 percent.

Mr. BROWN. I think in your analogy, you said that when you are fishing, you don't just fish for one species; you are fishing for a goodly number. And what happens when you reach the quota in one? Do you stop fishing, or what do you do then?

Captain GOETHEL. Yes, we have to stop fishing. You can trade with other people, either within your sector or secondarily outside of your sector. But the problem is there are what we call choke species. They are species that everybody seems to have very little of, and so nobody wants to trade them. So, there is going to be no trading, none to speak of. Basically, in my case, as an example, I have 50,000 pounds of cod, which is kind of the signature species of New England, but I only have 190 pounds of white hake. So, when I catch 191 pounds of white hake, if I can't find somebody to give more white hake, I am done for the year, even if I have only caught 5,000 pounds of cod.

Mr. BROWN. Is it true that you can barter your quota with somebody else?

Captain GOETHEL. There are complex rules surrounding the transferability of quota. You can—well, first of all, it is not quota. We shouldn't say that. It is percent sector contribution.

Mr. BROWN. OK. That sounds like a good word.

Captain GOETHEL. Well, a "quota" means you own it, and we don't own it. That is one of the problems.

Mr. BROWN. I see, OK.

Captain GOETHEL. So, you can trade, you can barter. The way the sector rules are set up, at least in my sector, you have to offer it to members first. The problem is, as I said, this fish all swim together. So, let us say 30 people in my sector, they go out, and everybody goes fishing, and somebody has a big tow of something. Then under the rules of engagement here, I don't have any choice. If he needs it, I have to give it to him because the sector is jointly and severally liable for not going over.

So, there is a chance as an individual I might not ever get to fish at all.

Mr. BROWN. So, what do you think the motive behind this is?

Captain GOETHEL. What do I think the motive is? I think the motive is to force people off the water. I think the head of NOAA has very clearly stated that there are too many boats, and she wants a bunch of them gone, especially in New England. And I would respond that, at least for me, my job is pretty important to me. There aren't a lot of job opportunities, as you folks are well aware of, right now.

Mr. BROWN. What is the unemployment up there?

Captain GOETHEL. About 10 percent. And as an example, my crewman, he graduated from the University of New Hampshire, has a degree in engineering. He can't find a job. I have an engineer

on the boat as a deckhand cutting codfish. There is a guy waiting to take his place that has an MBA from Cornell. He is about my age. He has been out of work for almost two years, can't find a job. His unemployment benefits have run out.

So, I guess what I am saying is that we can do the same thing here if we spread it out over a little longer period of time. We end up with the same results. It would just take longer to get there, and we could still keep these jobs.

Mr. BROWN. But nobody is listening.

Captain GOETHEL. It certainly—well, you folks are listening. You are here today. But quite frankly, I think NOAA is tone deaf.

Mr. BROWN. Thank you. Mr. Angers, a number of witnesses have discussed the need for better data collection. The 2007 Magnuson-Stevens Act reauthorization required NMFS to develop a better data collection program for recreational fishermen. How is this effort working so far?

Mr. ANGERS. Not so well, would be the short answer. The old data collection system was known as MRSS, the Marine Recreational Statistical Survey something. And MRSS had inherent problems—so much so that the National Academy of Sciences called it fatally flawed.

The new system that was authorized by the 2007 reauthorization of Magnuson is called MRIP, the Marine Recreational Information Program. I would note that the initials are M-R-I-P, like "rest in peace," which can be disconcerting to some. The goal of MRIP, though, was to lessen the errors of MRSS, not so much so to provide the agency with the opportunity to have good, solid data that they can use to make in-season adjustments so that fishermen—so that managers can actually manage fisheries instead of manage crises.

We did discuss quite a lot about MRIP and all of the data gathering by the agency at the NOAA summit this past weekend. I think that they have made some progress, but they still have a long way to go.

Mr. BROWN. I guess that goes to my next question. I apologize for running out of time. But NMFS hosted the recreational fishing summit last weekend. Did any positive development come out of this summit?

Mr. ANGERS. Yes, sir. I would say that it was broadly a positive experience. There were about 170 recreational fishery leaders from all over the country, and this summit was a fulfillment of a commitment made by Dr. Lubchenco in September of last year that she was going to gather everyone together and have an open conversation.

We had a pretty doggone open conversation. The agency has a number of shortcomings. To the extent that they were not aware of some of those shortcomings, I think that the 170 of us that were there made sure that they were going forward. We had folks from CEQ there and from throughout NOAA to have what I think was a pretty good conversation.

I am cautiously optimistic, more so than I have been in many years, about where this Administration can bring us. But still, the topic of catch shares particularly was on the minds of all of the participants in the conference this weekend.

Mr. BROWN. Thank you very much. And I hope that we find some resolve.

Mr. ANGERS. Me too.

Ms. BORDALLO. I thank the Ranking Member from South Carolina, Mr. Brown. And now I would like to recognize the gentlelady from New Hampshire, Ms. Shea-Porter.

Ms. SHEA-PORTER. Thank you. And I would like to thank all of the witnesses for being here. And I would like to say that we certainly are listening, and I appreciate you coming here again, Captain, and you have been just terrific for the voice of the New Hampshire, and indeed the New England, fisherman.

So, my first question has to do with my concern—and you know that we sent a letter. I am happy to report that the many Members of New England and elsewhere are sending letters about these issues. And, of course, Congressman Frank had one calling for some pretty important changes right now. But the question that I wanted to ask is—it has been a concern, and it is stated in this letter as well, that what we will see is consolidation, that we will indeed see the small fisherman pushed out.

As a matter of fact, I just got an e-mail today that said that a large number won't even try because of the fiscal impossibility of being able to make a living. Would you like to comment on that? Do you think this really is the death of the small fisherman, and that the consolidation will harm not just New England, but elsewhere, that we will see larger as better?

Captain GOETHEL. That is correct. Because of my position on the Council, a number of fishermen have come up to me and showed me their letters from NOAA, their percent sector contributions, usually with a, you know, throw it down on the table, look at this, followed by a stream of obscenities. And so I have seen—you know, these are confidential documents, but I have seen a fair number of them. I can guarantee you that a number of fishermen don't have enough to even remotely bother untying the lines. And they have already begun the process of consolidation.

As I said, I think most people will hang on for a about a year in the hopes that either the courts or you folks will straighten this out. But most people don't have big financial resources here. They can't hang on forever with no job. As far as the consolidation issue goes, yes. I mean, we are already seeing it. The people that are relatively well off—and believe me, nobody is well off under this system, but the people that are relatively well off are already going around offering to buy your quota. And again, they misuse the word, but the haves are already buying up the have-nots, and we haven't even started yet.

Ms. SHEA-PORTER. I think we both know how fiercely independent we are in New England, and in particular the fishermen. So, we have to make sure that they can earn their livelihood while still protecting the environment. And I believe that we can do this.

Now, we have other problems there, as you know. I have heard from many fishermen about their individual allocations. In some cases, fishermen have lost thousands of pounds of fish because of poor recordkeeping. And it wasn't their poor recordkeeping, as you know, but it was done by the dealer submitting their information to NMFS.

You also pointed out in your dissenting opinion on Amendment 16 that there is a serious inequity when determining allocations between previously existing sectors—the recreational industry and the rest of the commercial fleet. Can you speak to how those allocations have positioned New Hampshire's fishermen under Amendment 16?

Captain GOETHEL. OK. To the first issue of the data, that surfaced when we first started talking about catch history. We never really realized that nobody had ever done an audit of the data. So being on the Council, I took my own information and went through it, and I found a number of errors. I think, on 987 days worth of trips, I had about 70 errors, and some of them were quite substantial.

A number of reasons. We work with NOAA; they have done—the person in charge, Vic DiVecchio, has done an excellent job of trying to get to the root of the problems. A number of them have been identified. But again, nobody ever bothered to check prior to doing this. So, obviously, the data should have been checked before we even went down this road.

To the second issue of the inequitable allocation, as I said, if people had known two things—one is that they were going to at some point be judged on their catch history; and second of all, if they had been able to establish catch history in an equal fashion—in other words, there hadn't been all these import controls over the entire period that disadvantaged people, especially off New Hampshire, where we have a year-round closure, and we have the largest rolling closure, three months, which is the three months you could catch fish.

But NOAA said we couldn't go back in the record prior to the import controls; we couldn't use that data. It was too faulty. I don't know it was really any worse than what we are using right now. So, the result is that boats in New Hampshire were particularly disadvantaged by using a straight catch history formula. If we had gone and converted—the currency into time has been A days, which were the days that you could fish for multi-species. And most boats had on the order of 48 days.

If we had just done a straight conversion of A days to pounds, then you would have seen a very different picture. You would see a very different distribution of the allocation, and you would have a very different set of winners and lowers. You would have more fish in these communities and less fish on some of these larger vessels, which have established very big catch histories during the past 10 years when they could fish outside all these restricted areas.

Ms. SHEA-PORTER. OK. Thank you. Do I have one more second for follow-up, or is that——

Ms. BORDALLO. You are over.

Ms. SHEA-PORTER. I am over. OK. Thank you. I yield back.

Ms. BORDALLO. Thank you very much to the gentlelady. And now I would like to recognize the gentleman from Louisiana, Mr. Cassidy.

Mr. CASSIDY. Thank you. Mr. Magras, you mentioned in your testimony how Puerto Rico has a 12-mile state limit. The Virgin Islands have only a three-mile, and so inherently that biases the

process toward that with a larger amount of state waters. Can you give me—you have obviously thought about this. So, what would be a potential solution to that issue? Do you just toss out the whole system or, no, you can compensate for it in a certain way?

Mr. MAGRAS. Well, I think the Congresslady for the Virgin Islands has a bill before Congress to try to establish our territorial sea at the same distance as the Puerto Rican sea, and that would be able to justify the fairness. But for right now, we have 88 percent of the jurisdiction of any rule set in Federal waters falls within the Virgin Islands. And Puerto Rico, for the smaller percentage that they have, there is a very small area that they can do any fishing at all in Federal waters. So, setting the rules in place would really be discriminatory against us. And we feel that, number one, we would like to see the islands separated as St. Croix, St. Thomas, St. John, Puerto Rico in setting any kind of limits from catch limits to annual catch shares because it is totally different fisheries.

One island fishes for a different type of fish; the next island fishes for a different type of fish. It is what the people prefer.

Mr. CASSIDY. But I presume that your boats could go over there, and their boats could come over to you, and you could each catch the type of fish that your particular population is more likely to purchase, correct?

Mr. MAGRAS. Well, I disagree on that. The size of our fleet ranges from 17 feet long to 25 feet. That is more than 85 percent of the size of our boats. And the other 15 percent would fall where we have a couple of 36-footers. But we are fishing in our waters, and whatever is—like, for example, whatever is caught in St. Thomas/St. John stays on St. Thomas/St. John. We don't do any export at all. The same for St. Croix. The only thing that St. Croix would maybe send over to St. Thomas is conch.

But we don't send anything outside of there, so we don't venture into Puerto Rico. Puerto Rico might venture into our waters, but we don't have any reports on that happening right now.

Mr. CASSIDY. OK. Mr. Angers, you had mentioned—I was struck that the recreational harvest is only 3 percent. Is that only for Federal waters? Is it that the recreational fishermen are taking a greater catch within state waters?

Mr. ANGERS. Well, clearly, the management regimes are different. But those statistics that I gave you earlier were only for Federal waters. I mean, state waters, that is going to be a different story, depending on the particular fishery.

Mr. CASSIDY. Now you had mentioned—now as I am thinking carefully about your testimony, and at first your concern regarding the applicability of catch shares to mixed use fisheries, but then you mentioned inter-sector transfer. But in a sense, to have inter-sector transfer, that would be within the catch share system, correct?

Mr. ANGERS. Yes, sir. You know, the simplest way to look at it is in a commercial-only fishery, there are certain economies that you can achieve by using this tool that is in the tool box of catch shares. In a recreational-only fishery, catch shares don't make any sense. But where the two sectors do mix, there are going to be some substantial problems.

We already have some catch shares in place, for instance, the Gulf red snapper fishery, now for three years. And there are inherent problems when we have a management system that views the allocation discussion as rusted shut. Although Magnuson——

Mr. CASSIDY. What do you mean by "rusted shut"?

Mr. ANGERS. Let me explain. Magnuson requires the Councils to look at allocation between the commercial and recreational sectors, for instance, in red snapper. We do not find that the Councils, nor the agency, have the political will or interest to look at reallocating from one sector to another.

So, the point of my testimony was to say that if we are going to have catch shares in mixed use fisheries, there are certain things that have to be accounted for—lest we have this static allocation.

Mr. CASSIDY. So, what I am gathering from you is that even if the recreational people had the wherewithal to go to the commercial guys and say, listen, I am going to buy your allotment, your whatever, your permit——

Mr. ANGERS. Right.

Mr. CASSIDY.—and that would be 10 percent of, say, the total commercial share, that currently that would not be allowed. You can pull that 10 percent over to the recreational, but that is not allowed by the statute or by the Council?

Mr. ANGERS. That is currently not allowed by the Council.

Mr. CASSIDY. In the Gulf. Is that true all around or just for the Gulf?

Mr. ANGERS. I believe so. I believe so, yes, sir.

Mr. CASSIDY. OK. So, that is a local rule that could be theoretically overwritten by a political decision of the Council or by a statute modification of Congress.

Mr. ANGERS. Well, and by a make-up on the various Regional Fishery Management Councils that would have the political courage to address it because, although they are allowed to reallocate, they never do.

Mr. CASSIDY. OK. Thank you very much. I yield back.

Ms. BORDALLO. I thank the gentleman from Louisiana. Now I would like to recognize the gentlelady from the Virgin Islands, Ms. Christensen.

Ms. CHRISTENSEN. Thank you, Madame Chairman. Thank you for holding this second hearing on this really important issue and complex issue. Before asking a few questions, I want to take the opportunity to welcome all of our panelists, but especially Mr. Julian Magras, a 22-year full-time commercial fisherman, founding member of the St. Thomas Fishermen's Association, a member of the Caribbean Fisheries Management Council Advisory Panel, and also, as you have heard, Chairman of the Board for the St. Thomas Fishermen's Association. Julian, I appreciate your taking the time to be here, and all of the other witnesses as well for traveling from far and near to give testimony on behalf of our fishing communities.

I guess you had—and in answering the Chairwoman's question on the relationship between NOAA and our fishing community in the Virgin Islands. As you know, we talked a lot, we have worked a lot together, and I share your concerns on the management of the USVI fisheries and will continue to work with you to address those

concerns. But can you offer some additional insights in how you see our efforts to designate the U.S. Virgin Islands as a fishing community under the Magnuson Act helping communities in the territory? And in particular, do you see that as a way that might help to improve the relationship between NOAA and our fisheries?

Mr. MAGRAS. Thank you, Delegate Christensen. Actually, at the April meeting, the regional director for NMFS put on the record that at the next Council meeting, which will be taking place in August, they are recommending that the Virgin Islands become designated fishing communities. Now I personally feel that me and my group, the Fishermen's Association, that they realize that this is not going to make a big impact in setting the rules and regulations through the ACL process and the catch shares. So, they are throwing this out to us to try to make us feel that, oh, we are going to become fishing communities. The only thing that they are going to be looking at is the socioeconomic impact of us being fishing communities.

So, it can help in one way if they really sit down and look at the impact that it is going to be. But I strongly believe that it is not going to make much of a difference. I think what they need to do is really look over how they are doing the entire process. We want to set all of these new rules and regulations in place, but we still haven't come up with a way of collecting the data correctly.

Without the data, setting rules and regulations doesn't make any sense. The only people that will suffer, which we are suffering from right now, are the fishermen. We submitted 36 years of data, and now they are telling us that they can't use the 36 years of data. So, we want to come up with this whole new catch report, which they said that they were going to involve the fishermen, the stakeholders, in the development process. Well, that has not happened.

They are keeping a meeting next month in Puerto Rico at the Ponce Hotel. They invite us to come to the meeting. They pay for everyone else to attend the meeting. Over 36 people, they stay at this five-star hotel, and they refuse to pay for one member of the St. Thomas Fishermen's Association to attend this meeting. I have a serious problem with this because millions of dollars are dumped into the different Councils for outreach and education, and they say that they can't set any of these rules and regulations without the stakeholders' input. Well, we need to be at these meetings. Everyone else gets paid a salary to be there. When we attend these meetings, we don't get paid a salary to be there. We give up our own personal time, fishing time, to be at these meetings.

Ms. CHRISTENSEN. Is anyone else on the panel in a place that is designated as a fishing community? No? Yes? Mr. Moody, you are——

Captain MOODY. We in Morro Bay are considered a fishing community, and a small fishing community.

Ms. CHRISTENSEN. And has it helped or not? Has it made a difference?

Captain MOODY. I am not—could you rephrase your question, please?

Ms. CHRISTENSEN. The issue was the relationship between the fisheries and NOAA, and whether the communities have more input into how the regulations are designed and implemented.

Captain MOODY. Thank you. It is real hard for—on the West Coast, the Pacific Fishery Management Council goes from the Mexico border all the way up to the Washington border with Canada, and they have meetings in Boise, Idaho, Seattle. It makes it really hard for the local fishermen to attend a lot of these meetings. Thank you.

Ms. CHRISTENSEN. OK. Could I get in one more question? Just, Julian, like many in the room today, you and I are strapped to the belief that there is not one approach to every fishery. What type of fishery do you think catch shares would be most appropriate in, and what management do you think would be most effective in the Virgin Islands?

Mr. MAGRAS. Well, if we can get the relationship with the NMFS, the Caribbean Fishery Management Council, our territorial Fish and Wildlife, and the fishermen—if we could get that communication going where it needs to be, and everybody is on the same page, I think that the first area that we would see a chance for setting catch limits would be in the trap fishery. The reason for that, the St. Thomas Fishermen's Association, with its membership, after doing analysis, we have 87 percent of the trap fishery as members. And that is in the fish trap fishery. And we have 95 percent of the lobster fishery as members of the association.

So, we feel that in the future, if we could get the relationship working where it needs to be, we can attempt to try doing catch shares in that industry. But how I would like to see the catch share program work, if we decide to, is I don't want to see the little boats get kicked out of the industry at all because, if that is what is going to happen, well, then we would always be against catch shares because in a small community, as the Virgin Islands is, fishing has had such an important role in the Virgin Islands.

And right now, the young ones coming up don't want to invest the time and the money to go into the fisheries because of all of the new rules and regulations that are coming down. So, they are waiting to see what the outcome of the entire process is going to be. So, that is where we stand.

Ms. CHRISTENSEN. Thank you. And thank you for your patience in allowing me the extra questions.

Ms. BORDALLO. I thank the gentlelady from the Virgin Islands. And now I would like to recognize the gentlelady from California, Ms. Capps.

Ms. CAPPS. Thank you, Madame Chair, especially for having this hearing on Earth Day. I want to thank each of our panelists for being here to share your views on catch shares. I particularly want to welcome Wayne Moody, who is a commercial fisherman from Morro Bay, which is in my district. He is joined in the audience by Jeremiah O'Brien, who is the president of the Morro Bay Commercial Fishermen's Organization.

As he said, Wayne has spent over 30 years fishing along the West Coast. He has been using—he has been a real steward of the sea, and only fishes using hook and line methods, catching one fish at a time. Along with his wife, Wayne sells his premium handpacked albacore tuna to local restaurants. If anybody here wants to try some delicious, sustainably caught seafood, you can purchase some from his web site at eatalbacore.com. And with the little com-

mercial here, on the container is the picture and name of his vessel, the Capriccio, and the same statement, "Caught hook and line, one at a time."

So, I want to focus my questions on the impacts on local fishing communities, our historic working waterfronts, if their fishery transitions to catch shares. And I do this with the understanding that catch shares can be beneficial, even though they are not a panacea. They must be part of a comprehensive approach that supports communities and creates jobs and strengthens conservation. If properly designed, catch shares could help achieve these important goals.

We all know that the Pacific Fishery Management Council is designing, and will be implementing, a catch share program for Pacific groundfish trawl fishery by 2011. This design will affect fishing jobs and coastal communities. It will also impact fishery resources and the environment. As we learned at last month's hearing, we must get this policy right to ensure vibrant fishing communities and healthy ocean ecosystems.

So, Mr. Moody, small fishing businesses, which are family owned, like those in Morro Bay and others in California, stand to be the most affected if catch share programs are not designed properly. You would agree that catch share management may not be appropriate for every fishery, right?

Captain MOODY. Thank you, Congresswoman Capps, and thanks for the nice ad. Yes, ma'am, I would have to say that we have to really use a lot of care with catch share management design. And I will let you know that we are really concerned in our community about how catch shares will be implemented.

Ms. CAPPS. Now you would agree also that if a catch share program is being developed, it needs to be tailored to meet specific community goals upfront, and before it is implemented.

Captain MOODY. Yes, ma'am, most definitely.

Ms. CAPPS. What are some of the economic, social, and conservation goals of the Morro Bay fishing community?

Captain MOODY. First off, we need to make sure that we preserve our fishing heritage and the economies of the community. We need to make sure that we do it sustainably. And we also want to make sure that we retain access to the stocks, to the local stocks, by our local fishermen for the local community.

Ms. CAPPS. I want to get into the ways to make the Pacific trawl catcher program work for individual fishermen and their communities, as you are an example of that. Our Chairwoman asked about the anchoring quota in the community, a question. And you explained really very well the reason for an anchoring quota in communities with historic landings, and why this is an important design feature.

Could you expand just briefly on why these communities are so vulnerable to market forces?

Captain MOODY. Well, as we have heard, quota, when it is individual, transferable quota, it is a market commodity. And when that commodity is sold, it can leave the community, never to return again. Then when consolidation happens, the market forces build up, and it makes it tough for that to come back. So, we need to make sure we anchor some quota in the local communities for our local fishermen.

Ms. CAPPS. Thank you. That is so important. So, when designing the Pacific trawl catch share to allow community fishing associations to hold quota, this is going to help the fishing communities like Morro Bay to achieve its goals, right?

Captain MOODY. Yes, ma'am. It will protect us from losing jobs, landings, and the infrastructure.

Ms. CAPPS. So, as you know, the Pacific trawl catch share program includes design features requiring every boat—this is a sticking point now I am going to get into—and I beg your indulgence. I know we are already in the yellow light. Could I continue this chain of questions with my constituent, who has come all the way from California? This feature requiring every boat to carry an observer to account for the harvest, this is a very big concern for small boats like those in California, right? And this is something you have now been doing for over two years.

Captain MOODY. Yes, ma'am. It is a real concern. It almost seems like this ITQ West Coast trawl program has been designed for the larger boats. When you have to look at $300 to $600 a day for an observer, a lot of our small boats cannot financially pay that price, and it will force them to sell their quota.

Ms. CAPPS. Let me ask you, since you have been forced to do this for over two years, what has the result been?

Captain MOODY. There has been no bycatch, none at all.

Ms. CAPPS. Absolutely no bycatch, and you are already demonstrating that. Yet you continue to be required to carry these observers on board.

Captain MOODY. Yes, ma'am.

Ms. CAPPS. Do you have any designs or recommendations to improve this design feature?

Captain MOODY. It has already been shown in other countries at one-third the cost of human observers that electronic monitoring would be sufficient.

Ms. CAPPS. Especially when you do one at a time over the edge of the boat. It is very easy to observe that with a camera.

Captain MOODY. Total retention, yes, ma'am.

Ms. CAPPS. OK. Now in Morro Bay—just a couple of more questions, Madame Chair. In Morro Bay, several groundfish trawl permits are working under a PFMC-approved exempted fishing permit that allows these vessels to access the groundfish resource using hook and line and trap gear. What has been the record over the last two years? You already mentioned this, but I want to make sure this is in the record—over the last two years using these methods, which you have done in order to comply with the requirements. What about the bycatch?

Captain MOODY. There has been none. They have been able to target the species of—the healthy species.

Ms. CAPPS. So, your willingness to adopt this method has really resulted in the environmental goals of Pacific Coast, also of the environmental community in doing so. I have one last question, Madame Chair. I beg your indulgence. One of the take-home messages for me in the last hearing we held on catch shares was the need for flexibility in the design. And one of the items under consideration now is setting aside an allocation for adaptive management.

Would you explain what you interpret that to mean? And why would that be so important for small communities like Morro Bay?

Captain MOODY. This is where we are really concerned. This adaptive management in the West Coast ITQ trawl program has a 10 percent set-aside, and that is to go to the small coastal communities who would have problems once there is consolidation. And there will be consolidation; it has already been said that it is possible for the whole West Coast trawl ITQ to be owned by 40 to 50 vessels—the whole coast. And we need this adaptive management set-aside, 10 percent, for CFAs or community fishing associations, and that needs to be guaranteed.

There is real concern, even in NOAA, that that will never come back to our coastal communities.

Ms. CAPPS. So, you would say as a recommendation to this committee and also to NOAA and to the Pacific Coast Fishing Council, find some way to guarantee that that 10 percent stays in the community. Would you like to rephrase that for us so we really get it right?

Captain MOODY. We need the assurance of the National Marine Fisheries that that 10 percent set-aside, which is supposedly going for the first two years to the trawl sector, will never come back to the coastal communities—we need to make sure that that 10 percent set-aside comes back to the communities, small, affected, negatively affected, coastal communities.

Ms. CAPPS. And that would be that guarantee that you need to be assured that the way of life that you are adapting to is going to be there for your children and grandchildren and for the fishing community itself to be maintained.

Captain MOODY. Yes, ma'am.

Ms. CAPPS. I thank you very much, and I now——

Ms. BORDALLO. I thank the gentlelady from California. I would like to remind—I think we have votes in a few minutes. So, we are going to try to get the second panel on, but before we do, I would like to recognize Mr. Cassidy for a second round of questions.

Mr. CASSIDY. Step up to the mike, buddy.

Mr. ANGERS. Yes, sir.

Mr. CASSIDY. You mentioned on several occasions—you have testified here before. You have expressed strong concerns regarding the NOAA system of acquiring data as it relates to recreational fishermen. And I have had several meetings, if you will, in my office with folks to discuss this. And they say, well it is not great, but there is a strong correlation. We think that as bad as it is, it nonetheless correlates with a trend, if you will. So, if we do a phone survey, and we find out that—of course, people always lie about their fishing, but nonetheless, we adjust it down 50 percent, and we come up with something that reflects a trend in populations.

First, what would you comment about that? And second, if you disagree with its usefulness, what would you propose in its stead? And keeping in mind financial constraints, so it has to be reasonable.

Mr. ANGERS. Yes, sir. Excuse me. First of all, there are three different types of data that I think we want the agency to be acquiring. First is stock assessments. We want to know how many fish

are out there. No fisherman wants the ocean to be barren of fish, but we have to know how many fish out there to start.

The second kind of data is the socioeconomic data that shows the impact of fishing management on the local communities that we have been talking about today. So, we have biological data. We have socioeconomic data. And then we also need the data about the anglers.

The old data system, the big joke about MRSS, which I mentioned earlier, was that in their statistically perfect way to do intercepts dockside, to ask people what they caught, and then supplementing with a national phonebook, that a grandmother in Kansas could receive a phone call and be asked how many goliath grouper did you catch when you were recreationally fishing saltwater today. I mean, it was utter foolishness.

We know that the National Marine Fisheries Service, through the various science centers, is capable of getting an incredible amount of data, both on fish and on people. We know that because in the Pacific Northwest, one of the other big jokes is it seems like NOAA has named every single salmon because they know so much about the fish in the Pacific Northwest.

Mr. CASSIDY. But salmon come onshore, but they go offshore as well. I presume that must be easier if you have a tollgate, and they are saying, hey, there goes Sam, there goes Betty, there goes Ruth.

Mr. ANGERS. Right, true. No. That is a——

Mr. CASSIDY. Whereas if they are way out in the ocean it is like they are off at college. You don't know what is happening.

Mr. ANGERS. Well, good analogy, good analogy. But the reality is that in gathering the data in the Southeast, for instance, it is a lot more difficult because—let us just take our home State of Louisiana. Everyone who lives on the water, or everyone that lives on a tributary that can get you to saltwater—or to freshwater for that matter—they are a potential landing dock. And in the Pacific Northwest, it is not——

Mr. CASSIDY. But how is that difficult—yes. So, I agree. Every Cajun that lives on a bayou can go out and fish and come back to her backyard. So, how do you do it? What would be your better way of doing it, knowing that we have a different setup in the marshes than they do in the Pacific Northwest?

Mr. ANGERS. Well, I will tell you first, Mr. Cassidy, how I would not do it. Currently, in the Gulf of Mexico, there are 44 species in the reef fish complex, that is, red snapper, yellow snapper, vermillion snapper, lane snapper, gag grouper, yellow grouper, red grouper—all of the different colors and all of the——

Mr. CASSIDY. The yellow light is on, man. Hurry.

Mr. ANGERS. Thirty-four of the 44 species of fish in the Gulf reef fish complex, the agency has no data. Thirty-four of the 44.

Mr. CASSIDY. Now is that because they are not endangered or because they just don't want to do it?

Mr. ANGERS. It is a question of if they have the will to do it or not. But I will tell you, by next year, the agency is required to certify to the Congress that over-fishing is not occurring on species that as of today, in mid-2010, they have no data on whatsoever. That is not how a science agency should be conducting itself.

Mr. CASSIDY. OK. So, we are almost out of time. So, how would you do it?

Mr. ANGERS. Learn lessons from the successes in the Pacific Northwest. They do it, they do it properly, not just because Norm Dicks cares so much about fish in the Pacific Northwest, but because there is a culture there and the science and the—I am not a scientist, clearly. But the processes have been developed, they have been established, and that is transferable technology that can come to the Gulf, that can come to the South Atlantic, Mid-Atlantic, throughout the entire country.

But the way to not do it is what they are doing today, short-changing all anglers, all commercial fishermen, from one coast to the other.

Mr. CASSIDY. So, what you are telling me is that even though the salmon come onshore, the portion of the technology that refers to the fish that are out there, so to speak, is transferable.

Mr. ANGERS. Yes, sir.

Mr. CASSIDY. And that is equally efficacious, even though the fish do not come upon shore in the Gulf.

Mr. ANGERS. That is correct, yes, sir. And, of course, there are a number of fish in the Gulf, for instance, redfish that spend some time in the inshore marshes and state waters and sometimes in the offshore marshes. So, it is somewhat analogous to the salmon situation.

Mr. CASSIDY. OK. Thank you very much. I yield back.

Ms. BORDALLO. I thank the gentleman from Louisiana, and I thank the witnesses on the first panel for their testimony and for being here today. And I now call up our second panel of witnesses.

[Pause]

Ms. BORDALLO. I would like to welcome the witnesses on the second panel. They include Mr. James Donofrio, Executive Director of the Recreational Fishing Alliance; Mr. Bob Dooley, President, the United Catcher Boats; Dr. Brian Rothschild, Montgomery Charter Professor of Marine Science and Technology, University of Massachusetts and Dartmouth; and Captain Terry Arnold Alexander, Fishing Vessels Jocka and Rachel T.

I would like to welcome our second panel of witnesses and thank them for appearing before this Subcommittee. And again, I would like to note that the red timing light on the table will indicate when five minutes have passed and your time is concluded. We would appreciate your cooperation in complying with these limits. Be assured, however, that your full written statement will be submitted for the hearing record.

Mr. Donofrio, welcome back to the Subcommittee, and please begin your testimony.

STATEMENT OF JAMES DONOFRIO, EXECUTIVE DIRECTOR, RECREATIONAL FISHING ALLIANCE

Mr. DONOFRIO. Thank you, Madame Chair. Good morning, and good morning, Mr. Brown and members of the committee. Mr. Brown, I appreciate your comments this morning. They were very thoughtful.

Madame Chair, my name is Jim Donofrio, Executive Director of the RFA. I appreciate the opportunity to appear before you today

to discuss the application of catch shares or other limited access privileges programs in the recreational fishing sector. Today I have the distinct privilege of representing the Marine Retailers Association of America, the Fishing Rights Alliance, United Boatmen of New Jersey, United Boatmen of New York, the Maryland Saltwater Sportsmen's Association, Conservation Cooperative of Gulf Fishermen, the National Association of Charter Board Operators, the Southern Kingfish Association, New York Sport Fishing Federation, and the New York Fishing Tackle Trade Association.

These groups represent the interests of millions of saltwater anglers and tens of thousands of jobs in the saltwater fishing industry from Maine to Alaska. All of the aforementioned groups, including the RFA, are adamantly opposed to any catch share program in the recreational fishing sector that comprises the traditional open-access of season size limits and bag limits. And to our surprise, NOAA and the Obama Administration have diverted millions of dollars of resources from cooperative research and other scientific programs toward the implementation of catch shares. And the results from fisheries where catch share programs were implemented should spark serious trepidation for the commercial and recreational sector.

The facts certainly do not support the lofty, unfounded status the Administration has afforded to catch share promotion. The application to catch shares in the recreational sector would completely destroy the open access structure of the fishery and substantially affect fishing-related tourism in coastal states, as Mr. Brown has pointed out before in the other hearing.

It is apparent from NOAA's actions that the overall health of the recreational fishing industry is not a priority for the agency when enforcing Magnuson mandates and crafting management policies. NOAA has indicated that no fishery or sector is obligated to adopt catch shares, and that the final decision will be left up to the consideration of the Regional Fishery Management Councils.

However, the RFA finds no comfort in this stipulation. As you all know, there are numerous politically appointed personnel within the upper administration of NOAA that worked with pro-catch share environmental organizations prior to their employment with NOAA. NOAA has established a precedence of superseding the Regional Councils on matters of fisheries management, even when conservation is not a primary concern. The 2011 NOAA budget included a massive increase in funding for the development of catch share programs. And finally, in 2009, there were six appointments made to the Regional Councils where the candidates were affiliated with non-fishing interest groups that supported the use of catch shares.

This leads us to believe they were purposely appointed to help advance a pro-catch share agenda. RFA firmly believes that all anglers are entitled to equal right to access to recreational fisheries. The very definition of catch shares contained in Magnuson includes the use of limited access privilege programs, which are fundamentally incompatible with traditional open-access of our fisheries.

In many recreational fisheries, it is impossible to equally divide annual recreational harvest limits among its participants because there are so many more anglers than numbers of fish, and clearly

Congress should be aware of that limitation. Some groups have suggested limiting the number of recreational anglers to those individuals with financial resources to pay for access, thereby creating free markets for catch shares.

RFA hopes Members of Congress share our disgust with this notion of selecting recreational participation based on a criteria of money. RFA finds this approach to be in complete violation of the public trust doctrine established when our nation was founded to protect its citizens from the ownership of natural resources. The public trust doctrine states that the public rights are superior to private claims and private rights. The idea of providing the exclusive rights of free-swimming fish to a selected few is in complete contradiction to this law. And in fact, the Supreme Court, in 1842, declared that wildlife resources are owned by no one and ought to be held in trust by the government for the benefit of present and future generations.

Furthermore, RFA is very much concerned about the collateral damage to the recreational sector when commercial catch share programs are implemented. In a sense, commercial catch shares would memorialize allocations that are not necessarily consistent with the current or traditional magnitude of the corresponding recreational component in that fishery. The allocation of every single fishery with a commercial and recreational component needs to be considered before any commercial catch share program is implemented.

And again, Madame Chair, I thank you for the opportunity. I am happy to answer any questions today.

[The prepared statement of Mr. Donofrio follows:]

Statement of James A. Donofrio, Executive Director, Recreational Fishing Alliance

Madam Chairwoman and Members of the Committee, my name is Jim Donofrio, Executive Director of the Recreational Fishing Alliance (RFA). The RFA is a national 501(c)(4) non-profit political action organization whose mission is to safeguard the rights of saltwater anglers, protect marine industry jobs, and ensure the long-term sustainability of our Nation's marine fisheries. The RFA represents individual recreational fishermen, recreational fishing boat manufacturers, party and charter boat owners and operators, bait and tackle businesses, marina operators and other businesses dependent on recreational fishing.

I appreciate the opportunity to appear before you today to discuss the application of catch shares or other limited access privilege programs in the recreational fishing sector. Today I have the distinct privilege of representing the Marine Retailers Association of America (MRAA), Fishing Rights Alliance, United Boatmen, United Boatmen of New York, Maryland Saltwater Sportsmen's Association (MSSA), National Association of Charterboat Operators (NACO), Southern Kingfish Association (SKA), Conservation Cooperative of Gulf Fishermen (CCGF), New York Sportfishing Federation, and New York Fishing Tackle Trade Association. These groups represent the interests of millions of saltwater anglers and tens of thousands of jobs in the saltwater fishing industry from Maine to Alaska. All of the aforementioned groups, including the RFA, are adamantly opposed to any catch share program in the recreational fishing sector, in any way, shape or form. This is a fact that cannot be compromised. We do not want any discussion on any program that compromises traditional open access of seasons, size limits and bag limits.

The RFA operates under the premise that recreational fishing is good for the Nation. It is a traditional activity which brings families and friends together, enhances the quality of life for millions of Americans, provides tremendous economic benefits for the country in terms of jobs and tax revenues, and has a low impact on our marine resources. In fact, NOAA estimates the total recreational saltwater economic value exceeds $30 billion annually. Based on the profound benefits recreational salt-

water fishing provides to our Nation, RFA believes proper management is absolutely necessary.

Recreational fishermen were among our Nation's first conservationists and continue to be at the forefront of pushing for appropriate marine conservation measures because our businesses and our quality of life depend on healthy marine fisheries. Those who experience all that saltwater fishing has to offer often develop a sense of responsibility and desire to pass on the experience to younger generations and want to do their part to ensure that there are healthy resources for future generations to enjoy. This strong conservation ethic has played a significant role in the tremendous rebuilding progress made in many important recreational fisheries since the passage of the Sustainable Fisheries Act (SFA) in 1996 and amendments to the Magnuson Stevens Fishery Conservation and Management Act (MAGNUSON) in 2007. Currently, 81% of our nation's fisheries are not overfished and 76% are not experiencing overfishing. These statistics represent significant progress and a cooperative effort between fishermen and regulators.

Unfortunately, many in the recreational fishing public and fishing related businesses are not realizing the benefits of rebuilding and maintaining fish stocks at sustainable levels and are being denied accesses to some of the most important recreational fisheries. This adverse situation illustrates that the rationale offered to fishermen by NOAA that short-time pain in way of reduced access will result in long-term benefits when stocks are rebuilt is invalid. We now know that the absolute size of a fish stock is not the most vital component necessary to support a healthy recreational fishery. What has emerged as the most vital component in the post SFA and 2007 MAGNUSON reauthorization regime is access to fish stocks. The lack of reasonable access at times of high abundance is a cause for the general mistrust of NOAA and the general management framework of MAGNUSON. RFA believes this approach defies the very spirit and intent of domestic fisheries management when Magnuson was penned by Congress in 1976 Of additional concern is that this dysfunctional management approach threatens to compromise recreational anglers' willingness to be active players in future rebuilding efforts.

RFA has identified three major challenges facing our sport and industry; 1) stability in the recreational fishing industry, 2) preserving traditional access and participation, and 3) inadequate monitoring and/or assessment of recreational fisheries. Accountability measures and annual catch limits mandated by the MAGNUSON 2007 reauthorization result in mid-season closures that disrupt fishing activities, cause charter boats to cancel trips and leave tackle shops straddled with unsold inventory. These management practices create a very unstable business environment. In addition, anglers are dealing with some of the most restrictive regulations in fisheries that are either rebuilt or at historic high levels of abundance. Many of the 2007 MAGNUSON reauthorization amendments, including accountability measures and annual catch limits, demand a vastly improved recreational data collection system which currently does not exist. We believe that addressing these problems through minor changes to MAGNUSON is necessary to ensure a vibrant future for the industry. We only make this point because NOAA and the Obama Administration seem to be moving forward with catch shares in a panicked state.

NOAA and the Obama Administration have diverted million of dollars and resources from cooperative research programs towards the implementation of catch shares. They claim that such a management tool will solve all the problems currently being experienced in both the commercial and recreational fisheries and will promote more sustainable and profitable fisheries—a magic bullet. RFA must respectfully disagree with this overly optimistic assessment of catch shares. The results from fisheries where catch share programs were implemented should spark serious trepidation for commercial and recreational fishermen. The facts certainly do not support the lofty and unfounded status the administration and NOAA have afforded to catch shares. The underlying objective of any catch shares or limited access privilege program is to reduce capacity or the number of participants in a given fishery. The application of this objective in the recreational sector would completely destroy the open access structure of the fishery and collapse the influx of new participants that are necessary for a vibrant recreational fishing industry. Furthermore, catch shares would substantially affect fishing related tourism in coastal states.

There is no question that the recreational sector can be managed better. Based on the current management, it is understandable why the recreational fishing community is apprehensive towards the implementation of a catch shares programs administered by NOAA. It is apparent through NOAA's actions that the overall health of the recreational fishing industry is not a priority for the agency when enforcing MAGNUSON mandates and crafting management policies. Most glaring, is the failure to fully implement important sections of MAGNUSON that would improve rec-

reational data collection programs. These improvements were deemed necessary by the fishing community and the National Research Council. Yet, it has been 3 years since the reauthorization and NOAA has done very little to make the improvements. During that time however, NOAA have moved forward with implementing management tools that demand an improved data collection system. This illogical approach will result in significant damages to the recreational sector. If NOAA cannot be trusted to implement MAGNUSON in a fair and balanced manner, how can the recreational fishing community be expected to trust NOAA with a catch shares programs.

NOAA has indicated that no fishery or sector is obligated to adopt catch shares and that the final decision will be left up to the consideration of the regional fishery management councils. However, the RFA finds no comfort in this stipulation for several reasons. First, Dr. Lubchenco, NOAA Administrator, served on the Environmental Defense Fund board of directors. Environmental Defense is probably one of the most vocal proponents of catch shares. There are numerous other political appointed personnel within the upper administration of NOAA that worked with pro-catch share environmental organizations prior to their employment with NOAA. Second, NOAA has established a precedence of superseding the regional councils on matters of fisheries management even when conservation is not the primary concern. Third, the 2011 NOAA budget included a massive increase in funding for the development of catch share programs. And finally, in 2009, there were 6 appointments made to the regional councils where the candidates were affiliated with non-fishing interest groups that support the use of catch shares. The fact that these candidates were not supported by the commercial and recreational fishing communities and that they all had ties to environmental organizations pushing catch shares leads one to believe that they were purposefully appointed to help advance a pro-catch shares agenda. Many of the people taken off the councils were incumbents doing a fine job representing the fishing interests. It is clear that NOAA has a political agenda with this Administration like none seen before. This is a very troubling situation and one that does not provide the recreational fishing community with much confidence that their collective voice will be given due consideration.

RFA firmly believes that all anglers are entitled equal right to access recreational fisheries. The very definition of catch shares contained in Magnuson includes the use of limited access privilege programs which are fundamentally incompatible with the traditional open access of recreational fisheries. Open access has already been identified as a primary factor that sustains the overall health of the recreational fishing industry. There has been a precedence set in the commercial sector where catch share programs have been implemented, where a share is based on past activity in the fishery. In many recreational fisheries it is impossible to equally divide an annual recreational harvest limit among its participants because there are many more anglers than numbers of fish. In red snapper, each angler would have to be allocated less than one fish. Therefore, participation must be reduced in order for a recreational catch share to be successful. Clearly NOAA should be aware of this limitation.

Some groups have suggested limiting the number of recreational anglers to those individuals with the financial resources to pay for access, thereby creating free markets for catch shares. RFA hopes members of the Committee share our disgust with this notion of selecting recreational participation based on the criteria of money. RFA believes this approach would set a profound precedence of forcing anglers to pay for fishing access, creating the very real possibility of turning sportfishing into a privatized luxury for the elite. As market factors drive the cost for each fish, the recreational fishery would become cost prohibitive for many anglers to engage the fishery. The result would be a fishery reserved exclusively for the wealthy and those financially privileged enough to afford to fish.

RFA finds this approach to be in complete violation of the Public Trust Doctrine established when our nation was founded to protect its citizens from the ownership of natural resources. The public trust doctrine states that the public rights are superior to private claims and private rights. The idea of providing the exclusive rights of free swimming fish to a selected few is in complete contradiction to this law. The U.S. Supreme Court ruled in 1842 that wildlife resources are owned by no one and are to be held in trust by government for the benefit of present and future generations. This interpretation is the very basis of the traditional, open-access currently seen in U.S. recreational saltwater fisheries.

RFA believes such an approach would violate the Magnuson Stevens Fishery Conservation and Management Act (Sec. 301 (a)(4) and (5) that state "If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen." Section (5) continues to state that "no such measure shall have economic allocation as its

sole purpose." RFA contends that catch shares and limited access privilege programs based on market value would not be fair and equitable to all fishermen and that by reserving fish for those who can pay the most, violates Magnuson. RFA believes everyone should have the right to fish, not just those with the financial standing to buy their right.

RFA believes it to be poor public policy to allocate marine resources to an individual based on that individual's economic situation. It is clear that under such an approach, certain demographics and communities would be disadvantaged and adversely affected. This approach would make it burdensome for new entrants into the fishery. Without new fishermen coming into the fishery, the very progression of new participants that tackle shops and other fishing related businesses depend upon would collapse. This also goes against the multimillion dollar marketing campaigns funded by federal excise taxes on fishing products to attract new fishermen. Furthermore, as illustrated in the commercial red snapper fishery where price per pound increased 15% in the first year of the IFQ system, market demands in a recreational IFQ/catch share program would accelerate attrition as costs rise. Such a proposal would quickly lead to a small scale, boutique recreational fishery only accessible by elite fishermen. RFA envisions and hopes the future of recreational fishing is far different from this potential view.

It appears that in rolling out their plan to implement catch shares in U.S. fisheries, the Obama Administration and NOAA have failed to recognize some very basic characteristics of the recreational fishing community. Each angler is driven by different motivations when engaging the fisheries and the dynamics of the fishing community vary greatly by region and time. For example, some recreational fisheries are almost entirely catch and release while in other fisheries harvest is the primary motivation. Tackle shops and the for-hire sector often speak of the importance of anglers that decide to engage the fishery on impulse. These impulse fishermen can account for a substantial part of a fishing business's annual income and yet these fishermen may only fish one or two times a year or every other year. Failure to recognize these basic characteristics of the recreational fishery indicate that the effort to advance catch shares in the recreational sector is agenda driven as opposed to being driven by legitimate concern to address the real and pressing problems of the recreational sector.

Finally and with regard to the implementation of catch shares in the commercial fisheries, the RFA does not intend to take a position on their use in this sector. However, RFA is very much concerned about the collateral damage to recreational sector when commercial catch shares programs are implemented. The definition of catch shares and limited access privileges included in MAGNUSON describe catch shares as an amount of fish to be harvested based on the total allowable catch of the fishery that may be held for the exclusive use by the permit holder. The consequence of granting exclusive rights to commercial fishermen under the new annual catch limit regime of the 2007 MAGNUSON reauthorization would result in a permanent loss of potential harvest for the recreational sector. In a sense, commercial catch shares would memorialize allocations that are not necessarily consistent with the current or traditional magnitude of the corresponding recreational component in that fishery. RFA has challenged the commercial/recreational allocations in many important recreational fisheries such as New England groundfish, summer flounder, tilefish and some species in the snapper/grouper complex. For example, commercial fishermen of the summer flounder fishery were allocated 60% of the annual landing limit based on sector specific landings performance during a subjective timeframe. The timeframe was selected by the Mid Atlantic Fishery Management Council. At the time, the council had more commercial members and therefore voted for a timeframe that favored the commercial sector. Despite historical and current records that support a more equitable recreational allocation, recreational fishermen are denied their traditional portion of the summer flounder fishery. The RFA and United Boatmen challenged this allocation in federal court and the Mid-Atlantic council has not properly disposed of the issue. The allocation of every single fishery with a commercial and recreational component needs to be considered before any commercial catch share program is implemented.

In conclusion, the recreational fishing community is dealing with some of the most adverse management in recreational fishing history which ironically comes at a time when many fish stocks are rebuilt or well on their way to being rebuilt. Anglers have been restricted to unprecedented levels and even completely excluded from important fisheries. It is unfortunate that the recreational fishing community is in a depressed state due to broken promises made by NOAA of benefits to the recreational fishing community when stocks reach rebuilding targets. NOAA continues to fail to recognize that access to the marine fisheries is one of the most important problems the recreational fishing community faces. Heavy handed management and

inconsistent implementation of the 2007 MAGNUSON reauthorization has caused extreme mistrust of NOAA. NOAA cannot be trusted to administer or oversee a catch shares program in the recreational fisheries. The use of catch shares in the recreational sector would destroy the traditional open access structure and collapse the entrance of new participants in the fishery.

I thank you Madam Chair for the opportunity to provide the position of the RFA and the above mentioned groups before this committee. We all agree that there are significant problems facing our industry but we firmly believe that catch shares in the recreational sector are not the answer. I will be happy to answer any questions.

Response to questions submitted for the record by James A. Donofrio, Executive Director, Recreational Fishing Alliance

1. Can you tell me your experience fishing in a catch share program? Do you have a federal permit to fish in a catch share managed fishery?

Fortunately, no domestic recreational fisheries have been subjected to a limited access privilege program or catch share program. For this reason, I have not participated in a recreational catch share program. However, I have been professionally involved with the traditional open access recreational fisheries for over 25 years. It is undeniable that a recreational catch share program would completely destroy the principles and business model upon which this fishery is based.

2. Do you believe the traditional fishery management is failing recreational fishermen? What proposals does your industry have to improve the situation and ensure the long-term viability of federal fisheries?

It is fair to say that recreational fishermen are spending less time on the water. For the most part, this is not a consequence of depleted fish stocks or a lack of availability of fish to the recreational sector but excessively restrictive regulations prompted by inflexible mandates contained in the Magnuson Stevens Fishery Conservation and Management Act (MSA). Mandates that jeopardize the future of our sport without achieving any legitimate conservation objectives. RFA is actively working with members of Congress to correct the flaws in MSA so we can enjoy longterm sustainability of our nation's marine resources along with a vibrant recreational fishing industry.

3. Can you give an estimate of the number of recreational fishermen in the U.S. and the number of recreational fishing vessels in the U.S.?

There are two commonly accepted estimates for the number of saltwater anglers produced by the U.S. Department of the Interior and the National Oceanic and Atmospheric Administration (NOAA). These federal agencies estimate the number of saltwater anglers to be 9.1 million and 24.7 million, respectively. This significant variation between the two agencies is a result of the different methodology employed. Based on the number of boat registrations in coastal states and applying an assumed percentage that 43.5 of all boats are used in saltwater fishing, a fair minimum estimate of the number of recreational saltwater fishing boats in the U.S. is 2,621,926.

4. Do you believe the efforts to improve recreational data collection will yield better recreational harvest data?

MSA mandated improvements to MRFSS should improve the efficiency of the survey design. Specifically, the phone survey component will be linked to active fishermen identified through license and registry programs. Efficiency does not always correlate to accuracy or representativeness. Furthermore, the new approach may create biases that have not been quantified yet. RFA supports the MSA requirements to make improvements to recreational data collection programs but is cautious about the magnitude of any realized improvements.

5. Can you give us an example of an unreasonable rebuilding target?

The process of setting a stock's rebuilding target and other biological reference points is driven by the amount and quality of the information available to the stock assessment scientists. Thus if the data is poor, the rebuilding target will carry the same level of uncertainty and likely be artificially high due to the precautionary approach. In the summer flounder fishery, the rebuilding target has been lowered 3 times as stock assessment improved. Likewise, many question the red snapper rebuilding because of the profound flaws and imprecise data incorporated in the red snapper stock assessment.

6. How much of the recreational fishing effort in the U.S. takes place on charter boats?

This varies greatly from fishery to fishery and by region. However, NOAA estimates that in 2009, there were 66,602,781 total recreational fishing trips of which 2,001780 were taken on charter boat. This represents 3 percent of the total recreational effort.

7. Do you have thoughts on how managers can track recreational catches with a similar degree of certainty and timeliness? How should recreational catch-and-release mortality be quantified for each fishery and factored into the scientific processes?

It is unlikely that the recreational fishing sector can be monitored with the same mechanisms as the commerical sector where nearly every fish that is passes through a fish house can be counted. MRFSS is good for estimating trends in fishing activity but management demands a much more immediate assessment of fishing that is simply not possible with MRFSS as designed. A much more robust sampling program with a considerable budget and staff would be needed to attain the same level of monitoring confidence as seen in the commercial sector. A high level of timeliness can be achieved in the for-hire sector. Those vessels fishing under federal permits are required to complete vessel trip reports (VTRs) upon completion of each fishing trip. Copies are then mailed to NOAA and state agencies. Some states are converting this paper based reporting system to an electronic one which obviously improves timeliness. However, as mentioned above, the for hire sector only represents a small fraction of the overall recreational fishing effort. Of greater concern, for hire VTR are rarely even looked at by NOAA. From an assessment or science standpoint, mortality associated with discarding should be treated no differently than mortality associated with harvest. A dead fish is a dead regardless of its final disposition. From a management standpoint, discard mortality needs to be addressed on a fishery by fishery basis.

8. Can you tell me your experience fishing in a catch share program? Do any of you have federal permit to fish in a catch share managed fishery?

During my 25 years of professional experience in the recreational fisheries, there were no catch share programs in place. Currently, there are no federal permits issued for recreational catch share programs. Since the colonists first engaged in recreational fishing in this country, it has been managed in a traditional open access manner consistent with the Public Trust Doctrine. It does not require experience in a catch share fishery to know that such a program would destroy the open access recreational fisheries.

9. Do you think it is reasonable to have some restrictions –either on new entrants into a fishery or some limits on effort—in fisheries where rebuilding is necessary?

Limiting the participants is unnecessary. Traditional management tools including adjustments to seasons, size limits, and bag limits have the ability to effectively control effort in rebuilding fish stocks. Many of the most important recreational fisheries have seen marked rebuilding success based on this approach.

10. Do you also have concerns, and if so, what are your specific concerns regarding accountability measures. What suggestions would you give Congress to correct these concerns?

RFA is concerned about the use of accountability measures in the recreational sector. In fact, accountability is already the standard when seasons, size limits, and bag limits are set in response to the previous fishing seasons performance relative to the harvest target. RFA contends that no additional accountability is needed in the recreational sector. Furthermore, accountability measures must rely on MRFSS for which is was never intended or designed to be used for. Congress should exempt the recreational sector from accountability measures included in MSA because current practice already satisfies this mandate.

Ms. BORDALLO. Thank you very much, Mr. Donofrio, for further explaining the impacts of catch shares on recreational fishers.

Mr. Dooley, thank you for being here with us today, and you may proceed with your testimony.

STATEMENT OF BOB DOOLEY, PRESIDENT, UNITED CATCHER BOATS

Mr. DOOLEY. Chairwoman Bordallo and members of the Subcommittee, thank you for the opportunity to testify before you today regarding catch shares, and in particular the West Coast trawl rationalization program. My name is Bob Dooley. I live in Half Moon Bay, California, and have been a commercial fisherman for over 40 years.

My brother John and I own and operate three boats that participate in Alaska and West Coast fisheries. I have been involved in fisheries prior to, during, and after the implementation of a catch share program, and therefore can provide you with this firsthand insight. One of the fisheries I participate in is the Bering Sea pollock fishery. A catch share was implemented in 1999 under the American Fisheries Act. I not only helped in the implementation of that program, but also have the unique perspective of having participated in that fishery since 1981.

I have seen the problems an open-access race for fish creates and the resulting downward spiral, both economically and environmentally. I have witnesses firsthand the benefits to the health of the fishery, communities, crews, and environment a catch share fishery provides.

In the early years, we took some big risks, ventured into unknown fisheries, built boats, found markets, and basically fished year-round. Over time, too many boats entered the fishery, and the seasons started getting shorter and shorter. In 1998, the pollock winter season had dwindled down to just one month. To try to make it, fishermen borrowed more money and invested in bigger boats with more capacity. But this became a race to the bottom.

Small independent fishing companies were disappearing, and large multinational corporations were picking up the assets and consolidating the fishery. In the mid-1990s, Alaska fishermen and the coastal communities started talking about how to save the fishery. The outcome was a proposal by the Bering Sea pollock industry called cooperatives. Co-ops are a form of catch share that assign a quota to a group of fishermen and allow the co-op to decide how and when to fish that allocation.

There is no doubt in my mind that the catch share co-op saved the pollock fishery and saved the independently owned fishing companies. By owning a share of a pollock cooperative, I am now able to work at minimizing my costs while increasing the value of my harvest. More importantly, the stability created by catch shares programs not only protects my investment, but also the investments of the related communities. In our co-ops, we work together to actively address fish stock challenges and provide solutions to environmental challenges in a quick manner.

I would now like to talk to you about the catch shares program that the Pacific Council has recently recommended. This is the West Coast trawl rationalization program. This program has been designed from the ground up through a collaborative, open, public process over the past six years. I am looking forward to fishing whiting under a coop-style management for the very same reasons that have benefitted Alaska pollock fishermen over the past 12 years. I will have the tools necessary to deal with bycatch prob-

lems, rather than racing for bycatch. I will be able to work with my fellow co-op members to maximize the use of a fixed allocation of rockfish bycatch to achieve full utilization of the whiting quota.

I am able to work with my processor to choose what time of year is best to fish, not based on when the season opens, but rather based on what time of year the bycatch rates are the lowest and the fish values and recovery rates are the highest.

The points I have tried to address today through my personal experience are straightforward. First, catch shares need to be designed from the bottom up and tailored to the specific needs and characteristics of a particular fishery. Second, fishermen become directly engaged in management of the fishery in solving scientific challenges, and use their resources and knowledge to work with government to better manage fish stocks. Third, catch shares do not cause negative impacts to the communities. Poor fishery management does.

Currently, thousands of tons of fish are discarded. As a result, a fishery that could be worth $70 million is currently only worth $25 million. Catch shares provide fishermen and communities with means to protect them against things like consolidation, corporatization, and the loss of fishing opportunity that you see today in open-access management.

If I would leave you with one thought today, it is this. A lot of Federal money has been spent on bad management. This only leads to more fisheries disasters and more job losses. But an investment in implementing catch shares like the Alaska pollock and West Coast groundfish program will pay huge benefits to our fishing families and coastal communities. Thank you.

[The prepared statement of Mr. Dooley follows:]

Statement of Robert E. Dooley, President, United Catcher Boats

Chairwoman Bordallo, Ranking Member Young, and Members of the Subcommittee; thank you for the opportunity to testify before you today regarding NOAA Catch Shares and, in particular, the West Coast groundfish rationalization plan. My name is Bob Dooley. I am the President of United Catcher Boats and co-owner of a commercial fishing company with my brother John.

John and I have lived in Half Moon Bay, CA our entire lives and have been commercial fishermen for over 40 years. Our families have been active in commercial fishing and it's supporting businesses on the West Coast for over 70 years. We presently own and operate three vessels. Two participate in the Alaska Pollock fishery and the West Coast Pacific Whiting fishery and our third vessel fishes Dungeness crab off the West Coast.

United Catcher Boats (UCB) is a trade association of 62 commercial fishing vessels that participate in the Alaskan Pollock, Alaskan crab, and West Coast groundfish fisheries. Our vessels are called catcher boats because that is all we do—we catch fish and deliver our catch to processing facilities. UCB members are very familiar with the benefits of catch share programs, participating in American Fisheries Act Pollock cooperatives as well as the Alaskan crab IFQ program, both of which were approved by Congress and developed through the North Pacific Fishery Management Council process.

I am here today to express the strong support of both UCB and myself for Catch Shares programs in general and specifically for the West Coast Trawl Rationalization Program approved by the Pacific Fishery Management Council (PFMC). We also support the subsequent request for federal funding to help implement this new fishery management program that is presently in the President's FY 2011 draft Budget.

I participate in the fully rationalized Bering Sea Pollock fishery in Alaska. That fishery was fully rationalized in 1999 through the provisions of the American Fisheries Act. I not only helped in the implementation of that program but also have the unique perspective of having participated in this trawl fishery since 1981. I have

seen the problems an open access race for fish creates and the resulting downward spiral, both economically and environmentally. I have witnessed first hand the benefits to the health of the fishery, communities, crews and environment a rationalized fishery provides. This is what has been missing in the current and past management of the West Coast trawl fisheries.

Over the past two decades the PFMC has struggled with finding a way to rebuild depressed fish stocks off the West Coast, implement an accurate catch accounting system both at-sea and at the dock, and structure the fishery so the trawl boat owners can once again be profitable and thus support the local communities that they live in and deliver their harvests to. During this time period, the federal government has declared the Pacific Coast ground fish fishery a federal disaster and the PFMC has implemented a license limitation program that did not control effort. The fishery has been managed via monthly trip limits that required regulatory discards and has a minimal observer program. Congress authorized and funded a vessel and license buyback loan program that failed to reduce overall effort in the fishery. My 2009 Pacific Whiting Season lasted just three weeks. All of these measures have failed to rebuild the fishery and the value of the fishery continues to be at an all-time low. Six years ago, the PFMC embarked upon a project that would allow for "rationalization" of the West Coast Trawl fishery, otherwise known as a Catch Share program, and last year made their final recommendation to the Department of Commerce. This new management program is scheduled to go into effect just prior to the start of the 2011 fishery.

The first point I would like to make is that this program was developed from the ground up with full participation of all stakeholders in the West Coast groundfish fishery from Southern California to Northern Washington. This is not an example of NOAA Headquarters in Washington, DC trying to impose catch shares on the fishery. The PFMC established a special stakeholders committee that included a broad membership of fishermen, processors, NGOs and community representatives. Out of this open process came a preferred option for an IFQ-based system for the shoreside groundfish and Whiting fisheries and a Co-op-based system for the offshore Whiting fisheries.

The second point I want to make is that this new program will do two things that will have a dramatic positive effect on the health of the fish stocks and the value of the fishery. The first is that it will end the practice of "regulatory discards". Under the present trip limit style management fishermen are required to throw valuable fish overboard. This discard is subtracted from existing quotas under an assumed estimated discard rate thus contributing to the actual decline of the resource while no value is being added to the fishery or our communities. Under the new program, each fisherman will be allocated their own quota, or percentage, of the stocks of fish they catch and once they reach their assigned amount, will either have to stop fishing or find another fishermen to acquire fish from. This individual allocation allows each fisherman the opportunity to harvest their own fish when it is most valuable and the ability to utilize each pound of their quota to return the maximum benefit to themselves and their communities.

The second thing that will occur under this new program is accurate accounting all fish that are harvested. Every boat will be required to carry a federal observer that will account for the harvest at-sea. There is also a requirement of a federal weigh-master at each processing or receiving plant to observe the delivery of fish and to check the weight of each delivery. These measures will result in accurate accounting of the fish that are harvested and delivered.

My third point has to do with federal funding of this new Catch Shares Program. To implement this new West Coast program, NOAA is requesting about $12 million in the FY2011 budget. A large portion of this requested funding will go to help fishermen afford the cost of having a federal observer on board their boats (estimated at between $300 and $900 per day per observer).

Note that this request of funding is not a request to subsidize the federal groundfish trawl fishery. In fact the federal government has the authority under the Magnuson-Stevens Act to assess fishermen a LAPP management fee of up to 3% of the value of the fishery. The fishermen participating in the program will pay an annual fee for the cost to manage the fishery. The $12 million request is for the start-up cost of the program in 2011.

Some have said that this funding for implementation of our new Catch Shares program will take funds away from current collaborative fishery research and fishery science research. This is simply not true. Mr. Barry Thom, the Acting NMFS West Coast Regional Director, and Dr. Eric Schwaab, the newly appointed head of NMFS, both have stated recently that the new Catch Shares programs will not take federal money away from current research programs (Mr. Thom at the March 2010

PFMC Meeting in Sacramento and Dr. Schwaab at the previous House Resources Subcommittee hearing on Catch Shares on March 16, 2010.)

Good management of a fishery requires accurate stock assessments of the fish populations, and a reliable system to determine the amount of fish that can be sustainably harvested all based on good science. Catch Share programs in other parts of the country and world have resulted in the stakeholders, namely the fishermen, demanding the best available science and research be used. The reason for this is under a Catch Share system the fishermen have a vested interest in the sustainability and health of the fishery resource.

Catch Share programs also set up the opportunity for fishermen to find solutions to management problems without a government mandate, or regulation. Rather, fishermen work cooperatively to find creative, voluntary programs to solve real problems. Let me give you a couple of examples of what I am talking about by looking at the Bering Sea Pollock fishery. The first is the Pollock fleet's actions to address the problem of incidental salmon bycatch taken while we are fishing for Pollock. Under our co-op system, the boat owners developed and approved a voluntary program to close small, discrete areas on the fishing grounds for a limited duration when high rates of salmon bycatch are encountered. We call these areas Hot Spot Avoidance Areas. Unlike the government, we are able to close these areas to individual boats or a group of boats that have above average rates of salmon bycatch while keeping these Hot Spots open to boats that have low rates of bycatch. This fleet-sponsored bycatch avoidance program can only happen when we are operating under a Catch Share program. We are beginning the process of designing a rockfish bycatch avoidance and management program for the West Coast Whiting fishery when the Groundfish Trawl Rationalization program goes into effect. So what we did in the Alaska Pollock fishery due to AFA we will do in the West Coast Whiting fishery. Our goal is to harvest 100% of our allocation while at the same time stay under a bycatch cap for incidentally caught species. Government initiated regulations have failed to achieve this goal.

The second example is the development of a salmon excluder device. Through a Pollock industry initiative, we designed, developed and tested a number of devices to put into our mid-water trawl nets that exclude the bycaught Chinook salmon. After four years of trials and testing we now have arrived at a device that over 60% of the Pollock fleet is now using "without any government regulation requiring us to do so.

As I mentioned in my introductory comments, I fish in both the rationalized Bering Sea Pollock fishery and the soon-to-be rationalized West Coast Whiting fishery. I can tell you that back in 1998 when Congress and the North Pacific Fishery Management Council were developing the American Fisheries Act, many of us out on the water fishing were very skeptical of this new program. Because of this, our concerns expressed at NPFMC meetings when they were developing the AFA regulatory provisions were very skeptical and there were a lot of boat owners that were quite nervous and in fact didn't support the program. You have to realize what we were going through in those days. Most if not all of the fishermen were just trading dollars and a number of the Pollock companies had gone bankrupt. In addition, many of the multi-national, large fishing companies were acquiring a lot of the vessels and consolidation was happening. During a 10-year period, from 1989-1999, the Pollock industry experienced three bloody sector allocation battles at the NPFMC. For me personally, the only reason I am still in the Pollock business is due to the provisions of the AFA that gave me and my brother a certain, known allocation of Pollock annually and the ability to get the most value out of our harvest of Pollock. The ownership and use caps in this law have protected the smaller fishing companies. I do not know a single participant in the Bering Sea Pollock fishery today that does not emphatically support the American Fisheries Act and the rationalized manner of the fishery.

I can also tell you that the Whiting fishermen who also fish Pollock, like myself, were the first ones to go to the Pacific Fishery Management Council and ask for an AFA-style co-op management structure 6 years ago, to address the very same problems we were experiencing in the Alaska Pollock fishery 15 years ago. Again, this is a "ground up", not "top down" built program and one that the fishermen who are dependant on this fishery are very excited about.

Thank you very much for the opportunity to share my and UCB's perspective on catch shares.

Ms. BORDALLO. Thank you very much, Mr. Dooley, for explaining the perspective of the United Catcher Boats on catch shares. And

now I would like to welcome back to the Subcommittee Dr. Rothschild. And you may begin your testimony.

STATEMENT OF BRIAN ROTHSCHILD, PH.D., MONTGOMERY CHARTER PROFESSOR OF MARINE SCIENCE AND TECHNOLOGY, UNIVERSITY OF MASSACHUSETTS DARTMOUTH

Dr. ROTHSCHILD. Thank you, Madame Chairman. Members of the committee, thank you for the opportunity to testify before you this morning. I also chair the Mayor's Ocean and Fishery Council in New Bedford, Massachusetts, the largest port in the Nation in terms of value. Our Council is a sounding board for much of the Massachusetts fishing industry, and I bring you their greeting.

In my testimony this morning, I want to provide background on the initiation of the catch share concept in New England, and point out structural and conceptual difficulties that make the catch share initiative an experiment, rather than an example of implementation of a well-thought-out policy.

For over a decade, fishery management in New England has been wasteful and inefficient. Over-fishing and a failure to rebuild stocks have been widely cited. A less publicized aspect of waste are the hundreds of millions of dollars of fish that could have been caught without over-fishing that were not caught because of inflexible regulations. In addition, tons of valuable bycatch are thrown back in the ocean because of management regulations.

The blame for over-fishing and failure of stocks to rebuild is often laid at the feet of a prevailing days at sea management system. In this effort-based system, only the effort, the days at sea, are precisely controlled. It was reasoned that instead of controlling effort, controlling catch would eliminate over-fishing and result in increased stock abundance.

Controlling catch is called the quota system. For varying reasons, the quota system morphed into a sector system. The sector system in New England is being launched with mixed reception. The facts of the matter are that property rights systems such as sectors reduce the open access like wasteful imbalance between capital and the amount of fish that can be caught. However, they also change the social structure of the industry, reduce boats, reduce jobs, negatively affect shoreside businesses, as well as destroying the cultural fabric of fishing communities.

The launching of the sector system in New England has been associated with a plethora of advice, most of which is unheeded. This advice contains nuggets, some of which come from NOAA, that relate to equity, taking time to conduct adequate planning, thinking about buy-back programs, providing a safety net for those who are disaffected, considering the fundamental issues associated with the transfer of public property to the private sector, and most of all, properly designing the management system.

Many in the community do not believe that the New England catch share system is well designed, and that its operation and present configuration will unfairly disaffect existing fishermen and industries, who otherwise would not be disaffected if it were well designed.

The people who have this view cite quotas are too risk-adverse. With anticipated quotas, 50 to 75 percent of the fleet and thou-

sands of jobs will be lost in a relatively short time. It is the failure to take into account the mixed species nature of the fishery in current management regulations. Unless this is changed, catch share management will only propagate and continue ongoing under-fishing and bycatch waste.

Structural details in the exchange of quota shares or allocations do not make sense. Stock assessments are not current. Critical assessments will not be completed before the start of the fishing year. Mechanisms to address the needs of the disaffected are not in place. Allocations for scallop bycatch have not as yet been resolved. This is a very critical problem that concerns anywhere from tens to hundreds of millions of dollars.

The intent of Congress, as expressed in the plain language of the Magnuson-Stevens Act, does not appear to have been taken into account, particularly with regard to National Standard 8. Most telling, there appears to be no users manual for fishermen newly engaged in the system. A users manual would explain the structure of the system and the day-to-day details of how it would operate. How in the real world would 20 sector managers control the flow of 20 species of fish, 400 possibilities in virtual real time?

It seems that the approach to developing catch shares in New England has transformed the ready, aim, fire sequence into a fire, aim, ready sequence. This is not a good way to develop public policy. We cannot minimize the importance of the users manual and of conducting sufficient analysis to understand the fate and effect of this major Federal action.

In my written testimony, I have made a number of suggestions, and the most important one appears to be that the Congress or Administration should form a task force, an ad hoc task force, to reform fisheries management in New England. This task force should consist of members of the fishing, science, environmental community, and work from the ground up. And we think that this will be a really good opportunity to move ahead in the future. Thank you very much.

[The prepared statement of Dr. Rothschild follows:]

Statement of Brian J. Rothschild, Montgomery Charter Professor of Marine Science, University of Massachusetts Dartmouth, and Chair, Mayor's Ocean and Fisheries Council

Madam Chairwoman and members of the Committee, thank you for the opportunity to testify before you this morning. My name is Brian Rothschild. I am the Montgomery Charter Chair of Marine Science at the University of Massachusetts Dartmouth. I also Chair the Mayor's Ocean and Fisheries Council in New Bedford, Massachusetts, the largest fishing port in the Nation in terms of value. Our Council is a sounding board for much of the Massachusetts fishing industry. I bring you their greetings.

In my testimony this morning, I want to provide background on the initiation of the catch-share concept in New England and point out structural and conceptual difficulties that make the catch-share initiative an "experiment" rather than an example of implementation of a well thought out public policy. I conclude that it is necessary to 1) maximize economic survival of participants during the first year by relaxing annual catch limits (ACLs) without overfishing; 2) facilitate and accelerate an independent coherent review of the status of the stocks in New England waters; 3) establish bold new and innovative scientific programs focused directly on the needs of fishery management; 4) establish a systems engineering/inventory management approach to day-to-day fisheries management; and 5) refocus budget and programs on the needs of fishery management. We also need institutional reform, including 1) making the New England Fishery Management Council an elected body;

2) institutionalizing a systems of checks and balances in the Agency; and finally 3) "consulting with the people" on how to reform fisheries management in New England by establishing an ad hoc New England Fishery Management Reform Commission.

For over a decade, fishery management in New England has been wasteful and inefficient. Overfishing and a failure to rebuild stocks have been widely cited. A less publicized aspect of waste are the hundreds of millions of dollars of fish that could have been caught without overfishing but are not caught because of inflexible regulations. In addition, tons of valuable bycatch are thrown back in the ocean because of management regulations.

The blame for "overfishing" and failure of stocks to "rebuild" is often laid at the feet of a prevailing days-at-sea (DAS) management system. In this effort-based system—only the "effort"—the DAS are precisely controlled. It was reasoned that instead of controlling effort, controlling catch would eliminate overfishing and result in increased stock abundance. Controlling catch is called a "quota system."

For varying reasons, the quota system morphed into a property rights system, or an individual-transferable-quota like system (ITQ). This then morphed into a sector system. The sector system, where groups of boats form sectors and each sector is allocated a "share" of the fish, is thought to be under the umbrella of "catch share" management.

The sector system in New England is being launched with a mixed reception. The facts of the matter are that property rights systems such as "sectors" reduce the open-access-like wasteful imbalance between capital and the amount of fish that can be caught. However, they also change the social structure of the industry, reduce boats, reduce jobs, negatively affect shore side businesses, as well as destroying the cultural fabric of fishing communities.

The launching of the sector system in New England has been associated with a plethora of mostly unheeded advice. This advice contains nuggets (some of which come from NOAA) that relate to equity; taking time to conduct adequate planning; thinking about buy-back programs; providing a safety net for those who are disaffected; considering the fundamental issues associated with the transfer of public property to the private sector; and, most of all, properly designing the management system.

Many in the community do not believe that the New England catch-share system is well designed and that its operation, in its present configuration, will unfairly disaffect existing fishermen and industries who otherwise would not be disaffected if it were well designed.

They cite

- Quotas are too risk averse. With anticipated quotas, 50-75% of the fleet and thousands of jobs will be lost in a relatively short time.
- There is a failure to take into account the mixed-species nature of the fishery in current management regulations. Unless this is changed, catch-share management will only propagate ongoing underfishing and bycatch waste.
- Important structural details in the exchange of quotas, shares, or allocations do not make sense.
- Stock assessments are not current. Critical assessments will not be complete before the start of the fishing year.
- There are limited mechanisms to address the needs of the disaffected.
- Mechanisms for scallop bycatch have not as yet been resolved. This is critical because the allocation of flounder bycatch to scallopers involves tens of millions of dollars, if not more.
- The intent of Congress as expressed in the language of the Magnuson-Stevens Act does not appear to have been taken into account, particularly with regard to National Standard 8.

Most telling, there appears to be no "user's manual" for fishermen newly engaged in the system—a user's manual would explain the structure of the system and the day-to-day details of how it would operate. How in the real world would 20 sector managers control the flow of 20 different species of fish (20 x 20 = 400 possibilities) in virtual real time?

It seems that the approach to developing catch shares in New England has transformed the "ready-aim-fire" sequence into a "fire-aim-ready" sequence—not a good way to develop public policy. We cannot minimize the importance of a "user's manual" and of conducting sufficient analysis to understand the fate and effect of this major federal action.

BACKGROUND ON THE TRANSITION FROM DAYS AT SEA TO SECTORS

Fishery management in New England has been wasteful and inefficient for over a decade. This negative view generally results from heavily publicized overfishing

and failure to rebuild some groundfish stocks. This negative view would be accentuated if the public realized that in addition to overfishing and the failure to rebuild stocks, wasteful under fishing, bycatch, and unrealistic rebuilding requirements have been induced by management regulations. In addition, regulations have resulted in seemingly counterproductive ecosystem experiments (e.g., the explosion of the dogfish shark population).

Regarding Underfishing—It is generally not realized that fishery management in New England over the last several years has limited landings to c. 25% of the scientifically allowable catch. This amounts to a 75% waste of the resource amounting to an ex-vessel (ex-vessel value means price at the dock—by the time the product exits the economy, its value increases by a factor of about three) loss at the dock of $300-400 million per year (a substantial amount of the loss relates to underfishing haddock, which have become stunted). It is important to recognize that the underfishing statistics are very difficult to interpret. (For example, the Gulf of Maine cod TAC in Fiscal Year 2007 was 10,000 tons. But landings amounted to only 4,000 tons. In other words, 6,000 tons of cod disappeared. The 6,000 tons were either not caught, discarded, or not recorded.)

Regarding Overfishing—It is important to acknowledge that it is very difficult to explain the concept of overfishing in a multispecies setting such as that which exists in New England. Because it is difficult to explain, it is difficult to produce credible regulations.

Regarding Bycatch—Regulations in the current fishing year forced throwing overboard many species as bycatch. For example, 1.5 million pounds of yellowtail flounder were discarded at sea. This amounts to a waste of about $2.5 million ex-vessel.

Regarding Unrealistic Rebuilding Schedules—Most ecologists would agree that a rigid 10-year rebuilding schedule does not make sense, nor would they agree that the carrying capacity of ecosystems would be sufficient to bring all fish populations to their historically maximum level at the same time. This lack of flexibility should change.

Regarding Ecosystem Experiments—New England fishery management by itself has arguably modified the ecosystem and habitat to a greater degree than any other human activity by virtually eliminating fishing mortality on dogfish sharks so that this species of voracious predator is now one of the most abundant fish in the ecosystem.

Any property rights system contributes to economic efficiency by tuning the capital in the fishery to the magnitude of the stocks. So a property rights or catch-share system can eliminate the situation where there are boats that fish only a score of days per year. But the sector system was advertised as a great advance in conservation: sectors will stop overfishing, stocks will rebuild, and the race to fish will be eliminated. These are however generally false claims. What is true is that the sector system will reduce the number of boats in the fleet, employment, and reduce the quality of many fishing jobs. While in the long run most shore side businesses—a key component of local economies—would be devastated. The negative aspects of the catch-share/sector system is the reason it is being eschewed by the European Union (had quota system for many years); the United Nations; and Pew Charitable Trusts. Furthermore, for sectors to work, the structural problems that have been associated with the DAS system in New England need to be rectified. If they are not, and it does not appear that they are, then the only advantage induced by catch shares is an economic disruption of the fleet, which is specifically counter to the intent of Congress, as specified in National Standard 8.

COMMUNITY PERSPECTIVE

With regard to community perspective, there is general dissatisfaction with the sector program. It is fair to say that the sector system is viewed with almost universal angst and suspicion; allocations of fish were unfairly or illogically developed; and there are glaring issues with the operational mechanism. Many fishermen at this point in time do not understand how they will be affected by the catch-share system.

The catch share approach is insufficiently analyzed (what will be the economic effect of catch shares: fishermen say 50% reduction, but Amendment 16 refers to relatively small losses in revenue); poorly planned (no "user's manual," policy statement not completed, stock assessments not completed, many unanswered questions, unfair allocations, unworkable operating principles); and insufficiently budgeted (see recent requests for more funds without giving priority to needs of fishermen and root scientific issues).

Given this unhappy state, most claim that catch shares will result in a significant decline in the fleet and jobs. There appears to be a consensus that after the first of May the fleet and employment will be reduced by 50%.

The lack of planning, analysis, and budgeting; the lack of what we might call responsible management, juxtaposed with the destruction of livelihoods and the culture of our coastal way of life, has given rise to two points of view.

The first is to agree to move ahead with the seemingly flawed program on May 1 and take whatever community losses result from the program. The second is to postpone the inception of the program until the necessary planning can be executed—this approach is favored by many, including the mayors of Gloucester and New Bedford.

Fishermen who favor moving ahead with a flawed program fall into two classes. In the first, are those few fishermen who have attained very large allocations of fish and will profit immediately. In the second, are fishermen who feel there is no legal or legislative option to halt the onset of the catch share program; they fear that any delay would return them very limited access DAS. Moving ahead at this time seems to categorize the catch-share system in New England as an "experiment."

Those who favor a delay, should it be possible, insist that a delay is only acceptable *if quantities of fish were guaranteed in the interim so that fishermen would not lose income and that there would not be a draconian reduction in DAS* until effective planning could be accomplished.

Regardless of whether one favors the muddling-through approach or the delay, there is a general concern that issues related to the plain language of law—equity—illogical operating principal—not enough fish—and no plan for failure are serious constraints on the success of the program.

THE PLAIN LANGUAGE OF THE LAW—Regarding the plain language of the law, the community does not understand the disconnect between the catch-share system and National Standard 8. It is generally agreed that the catch-share system is simply an economic reallocation of the fish stocks that in the medium and short run would completely change the economic and social fabric of fishing communities and generate huge welfare costs. Yet National Standard 8 is designed specifically to protect the economic and social welfare of the community. If National Standard 8 has no meaning, then why is it in the statute?

EQUITY AND FAIRNESS—Regarding equity and fairness, there is a belief that the initial allocations of fish have been made unfairly. Some fishermen claim that over the years they were discouraged from trying to catch certain valuable species such as cod in order to achieve conservation goals. As a result of their good efforts to reduce fishing on cod, the catch of cod was reduced. So now when allocations are based on catch history, those who took advice to catch less cod are penalized by being allocated less cod.

As another example, management regulations resulted in the industry catching only 10% of the haddock total allowable catch (TAC). So the few fishermen who caught haddock obtained a tremendous windfall of haddock allocation.

Another sticking point is that in the Council process some allocations appeared to favor certain groups over others.

Finally, what really bothers fishermen is the fact that they were given an option of either fishing in sectors or in the common pool. After they made there decision, which was not reversible for many, the Agency reduced the catch potential of the common pool, leaving fishermen stranded in an uneconomic position.

It has to be remembered that for any management system to work, the disaffected need to be accommodated. It is important to realize that existent catch-share systems are heralded because the voices of those who benefit are widely publicized, while the voices of the disaffected majority are silent.

ILLOGICAL OPERATING SYSTEM—With regard to unworkable operating principles, consider the following. The fundamental core of valuing catch versus valuing quota seems to be broken. To exemplify, a fisherman is allocated 50,000 pounds of fish by species. Suppose he is allocated 100 pounds of cod and 49,900 pounds of haddock. He fishes on the first day, and he catches 101 pounds of cod—1 pound greater than his quota. He has to return to port and buy 1 pound of cod allocation from another fishermen. If for some reason he cannot buy the 1 pound allocation, then he summarily can no longer fish during the remainder of the year. If he cannot find someone to sell him the 1 pound of cod allocation, then he must try and sell his 49,999 pounds of quota. Knowledgeable observers predict that he can only sell his quota for about 30 cents on the dollar, while the 1 pound of cod allocation will cost far more than the average price of cod. These numbers are of course exaggerated, but they convey in a clear way the disincentive of the operational scheme.

UNDERFISHING AND EXTENSIVE RISK AVERSION—With regard to not enough fish, it is clear that the ACLs have been ratcheted down substantially. Most

of the knowledgeable observers of the system as it now stands predict that it will result in dire economical consequences. However, they do point out that if the Magnuson-Stevens Act could be interpreted such that ACLs were defined at the overfishing level (OFL) less 10% to account for scientific uncertainty, sufficient fish would be available to at least give the catch-share system a fighting chance. There are two aspects of the "not enough fish argument." The first is that the gross underfishing experienced in New England can be controlled; and the second is that the degree of risk aversion adopted by the Agency far exceeds that contemplated by Congress.

With regard to underfishing, the root cause of underfishing and bycatch is the Agency's failure to adopt flexibility measures such as the mixed stock exception. It appears that the mixed stock exception is permitted under the plain language of the Magnuson-Stevens Act.

The Magnuson-Stevens Act simply states that ACLs should be set at a level that overfishing does not occur. However, this is interpreted in National Standard 1 guidelines as setting the ACL to be sufficiently less than maximum sustainable yield (MSY) so that the MSY level is not exceeded. The guidelines advise that this is to account for scientific uncertainty. Guidelines further advise the Council to reduce the catch limits even further to account for management uncertainty.

This degree of risk aversion is unnecessary, counterproductive, and not required by law. First, many of the stocks are managed not by MSY, but by MSY proxy. These proxies produce calculations that are already 25% less than MSY. Second, while it is easy to define the probability of overfishing, methods for estimating the probability of overfishing are not well developed. Third, the reduction by 25% (this 25% is in addition to the 25% cited in the previous sentence) that is used for many of the New England fisheries is essentially arbitrary. Finally, because this regulation like other regulations does not have the force and effect of law and its application results in not obtaining the optimum yield, as specified in the plain language of National Standard 1, it should be abandoned so that any management system could function. It is important to recognize that while "overfishing" is relatively easy to define on a species-by-species basis, it is difficult to define in a multiple species complex such as the New England groundfish fishery.

WHAT DO WE DO NOW?

The haste in which the catch-share system was propagated in New England has caused a serious dilemma for the community. The community is cognizant that the Council is reported to be not working effectively, and it has also read the admonishments of experts in the conservation community that successful catch share programs need to be properly designed, need time to develop, and often require vessel buy-back programs. The transition and early implementation appears to be a work in progress; there are suspicions that the operational mechanisms and motivations are not sound; the quantitative extent of vessel financial defaults along with concomitant job losses and shore side bankruptcies have not been calculated. What is the magnitude of costs in lost taxes and increases in welfare payments to communities like New Bedford, Gloucester, or Scituate?

On one hand the community places high priority on any management system working properly and resulting in the greatest economic good while maintaining the social and economic fabric of the community. Putting the greater good as its highest priority, the community is led to an ineluctable conclusion that the best option is to postpone May 1 start date and engage in the necessary planning, analysis, and budgeting to make the system work!

On the other hand, an option to postpone the May 1 start date until adequate planning could be undertaken appears to have been foreclosed. Surprisingly, there appears to be little, if any, political will to postpone and engage in seemingly requisite analysis, planning, and the public discourse that is the American way of life.

So with a lack of political support to properly design the catch-share system, the community has no recourse but to choose the experimental muddling-through approach, under which a substantial fraction of the fleet will be lost without any plans, as far as we can see, to provide a safety net to the fishing industry and businesses that support the industry, let alone the communities that derive taxes from profitable fishing and are subject to welfare costs generated from unprofitable fishing and loss of jobs.

Perhaps worst of all, is the lot of individuals who will be economically harmed or disadvantaged and who otherwise would not be harmed or disadvantaged if the Agency undertook the appropriate analysis that would guide it to more satisfactory solutions.

While this is obviously a problem for New England, it is evidently also a problem for the rest of the Nation as evidenced by the March 16 hearings held by your Sub-

committee. While concerns need to focus on the folks most directly affected, they must also relate to the general public interest in public management and regulation of a privatized public natural resource. (Imagine an equivalent scenario where we wake up one morning to learn that the Secretary of the Interior has unilaterally privatized the National Park System without the sound analysis, planning, and debate that usually accompanies major federal environmentally related actions.)

It appears that your Subcommittee is hearing a balanced view of the intent of Congress expressed in the plain language of the Magnuson-Stevens Act and how it relates to the evolution of catch shares. It is realizing that catch shares are simply economic instruments that reallocate the wealth accrued from a public resource. They have by themselves little, if any, conservation impact. It is also learning that efficiency at the producing level may not be overall optimal. And a reorganization of the producing sector is likely to dissipate the centuries of cultural values associated with the fishery. (Do not forget the sacred cod that hangs from the ceiling of the statehouse in the commonwealth of Massachusetts.) It is also learning that the great success stories of catch shares emanate from the few that won allocations while the voices of the disaffected many are silent.

The analysis that I have given you paints a picture of moving ahead at any cost. My personal view is associated with the need to slow down or postpone the May 1 implementation date until a reasonably proper design of the system can be certified. As this seems unlikely, we need to take steps to get fishery management back on track.

Applying our experience with the New England "experiment" to the National good, it would seem that it would make sense to put a halt on the drive to new catch share approaches so that specifics can be analyzed and vetted and debated. It is important to remember that these discussions need to be related to real fisheries and need to take account of those who are disaffected as well as those that are winners. We cannot afford to have a massive transition of passing public property into private hands without requisite analysis, planning, and debate. Consider the New England experiment in the national analysis and debate. The New England experiment study would inform those in New England and the Nation on how to move ahead with fisheries management. It will be a real world, not theoretical, demonstration.

SUBSTANTIVE REFORMS

1. **To develop the New England catch-share experiment, it is necessary to maximize the survival of participants in order to minimize economic loss. This will require relaxing ACLs, but not overfishing.** For the experiment to work in a fair and equitable way, those that are most affected need to be protected. We need to protect individuals from economic collapse generated by the lack of analysis, planning, and debate. The Secretary needs to relax the overzealous precautionary approach limiting the catch of fish. We believe that this can provide enough fish to sustain the system until the requisite planning can be executed. This approach could be obtained without overfishing in the sense that the overfishing level would not be exceeded.
2. **Facilitate and accelerate an independent coherent overview of the status of the stocks in New England.** As we embark upon this experiment, the magnitude of the individual stocks and their "condition" is not understood by the public in a comprehensive way. Some stock assessments are based upon 2007 analyses. Others are pending (e.g., pollack). Some do not make sense (e.g., skate). The public needs to have an overview of the status of stocks as they presently exist in order to move ahead with a management program.
3. **Establish bold new and innovative scientific programs.** Many of the contentious arguments that surround the fishing debate result from stock assessments. Many believe that there is little consistency between the abundance of fish predicted by science and the abundance observed by fishermen. Actually, the problem with stock assessments relates to the assumptions and knowledge underlying the assessments, rather than the assessments themselves. We need to establish a bold new program that engages in more realistic stock assessments (i.e., includes the ocean environment, the interaction among fish species, and develops a better understanding of the interaction of fishing boats and fish), develops a comprehensive understanding of the ocean ecosystem and fishing, and understands the role of climate and fishing. Cooperative research needs to be intensified to a considerable degree. While some of these activities are pursued, they are not at a critical-mass level
4. **Establish a systems engineering/inventory management approach to day-to-day fisheries management.** This is the most efficient way to system-

atize the flow of management information and to use modern technology in fisheries management.

5. **Engage in programmatic analysis.** We need to focus budget allocations. Emergency funds need to be provided to disaffected fishermen and municipalities. Buy-back programs need to be considered. These may amount to c. $150 million. Retraining and permit banks need to be considered. It is necessary to understand how reprogramming of existing funds can result in programs that do a better job of managing contemporary problems associated without ocean resources.

INSTITUTIONAL REFORMS

1. **Make the New England Fishery Management Council an elected body.** The New England Fishery Management Council is not working well. It is disenfranchised from those that it serves. It is not always clear that decisions made by the Council are consistent with the intent of Congress. A Council member's job is a full time commitment. We should consider electing Council members to full time positions so they can optimize their performance. A smaller and more focused council of five to seven members might be about right.
2. **Develop checks and balances in the Agency.** A second institutional problem is that there are no checks and balances in the Agency. Because of this, there is no safety valve to deal with contentious issues; bold and innovative plans need to come from within the agency, and major initiatives like catch shares careen between a seeming common sense and infeasibility. For these reasons, it is important to establish institutional checks and balances in a model similar to the relationship between the Federal Aviation Administration (FAA) and the Civil Aeronautics Board (CAB).
3. **Establish an ad hoc New England Fishery Management Reform Commission.** A reasonable premise is that reform of fishery management in New England cannot be accomplished without considerable stakeholder input. Accordingly, a New England Fishery Management Reform Commission needs to be appointed by the Administration or Congress to take stock of the present state of management, determine how management should be reshaped, and provide advice on resources required to implement the plan. The Commission needs to comprise highly qualified stake holders—leaders in the fishing industry, environmental representatives, and scientists. The Commission should have an 18-month life.

Madam Chairwoman, I have tried to share with you the community perspective centered in New Bedford. I have attempted to provide some background on where we are and steps that we think bear important consideration as we move into the future.

Response to questions submitted for the record by Brian Rothschild, Ph.D., Montgomery Charter Professor of Marine Science and Technology, University of Massachusetts Dartmouth

Questions from Congressman Jay Inslee (D–WA)

1. This is the second hearing that we have had on catch share fishery management programs, so there has been a lot of discussion about catch shares. But I'm not sure we have heard from many witnesses that actually have participated in catch share programs. Can you tell me your experience fishing in a catch share program? Do you have a federal permit to fish in a catch share managed fishery?

The catch share program in New England did not begin until May 1, three weeks after the hearing, so I could not participate in the catch share program. I do not have a federal permit, but I am conversant with the view points of industry members throughout New England. We are now nearly two month into the catch share program. Studies by the Gulf of Maine Research Institute confirm the pessimistic views held by many people before the outset of the program.

2. I understand that "sector" catch shares are going into effect in only a few short weeks in New England groundfish. Have any sector managers asked to delay implementation? And it sounds like you're saying that fishermen stick with status quo regulations rather than shift to sectors. If so, why have fishermen who collectively comprise 98% of the available fish opted into sector management? Are you suggesting they don't know what they are doing?

I do not know whether sector managers have asked to delay implementation, but many rank and file fishermen have. There were two choices for fishermen: 1) the common pool, or 2) sector management. The catches in the common pool were significantly more limited so that being in the common pool was uneconomic. Many fishermen did not want to join sector management, but they had to because of the way economic choices were structured.

Questions from Republican Members

1. You cite a problem with the stock assessment situation in New England. How could this be fixed and how much would it cost the agency to implement your recommendations?

This is a very complex question. One of the strategies would be to improve data collection by more extensive use of fishing vessels and port sampling. This is supposed to take place under the sector program, but I do not know whether it will be at a critical mass level. The Agency could reprogram funds from lower priority programs to this high priority critical need.

2. You express a concern about "wasted" bycatch that is thrown overboard rather than landed. That raises an interesting dilemma on how to reduce wasted bycatch without encouraging targeting bycatch species. How do you propose NMFS deal with this?

Wasted bycatch arises from a variety of sources. One source of wasted bycatch arises from trip limits. Suppose a fisherman has a 10,000 pound per day trip limit. This would mean that at the end of a five-day trip that the fishermen would catch 50,000 pounds. The fisherman catches 10,000 pounds per day for the first four days amounting to 40,000 pounds. But on the fifth day he catches 25,000 pounds, so he has to throw 15,000 pounds back into the ocean.

3. Some have argued that the New England fishing fleet is too large to be economically viable and that even without a change to a sector system, a large number of fishermen will go out of business. Do you think a reduction in the fishing fleet was inevitable and if so, what effect on the coastal communities would this have? If not, why not?

A reduction in the fishing fleet was inevitable. The problem is that the catch share system will serve to reduce the fleet in such a way to maximize the pain to the coastal communities.

4. You note that "structural problems that have been associated with the [Days At Sea] system in New England need to be rectified". Can you give us examples of these "structural problems"?

One of the biggest structural problems is the so called choke species problem. This is also called the mixed species exclusion. Failure to apply the mixed species exclusion has resulted in a loss of hundreds of millions of dollars of fish over the last several years. It is important to understand that these fish could have been caught without violating overfishing regulations.

5. During the previous Administration, the position was that as long as overfishing was stopped, rebuilding efforts and timetables could be flexible. Do you agree with this position? If overfishing in New England stopped, would stock rebuild fairly quickly?

I agree with maximum flexibility. All managers, whether they are managing a company or fish stock, seek flexibility to deal with contingencies. One of the difficulties regarding overfishing is that sometimes a stock is declared to be overfished and then it turns out that it is not overfished. Stocks are influenced both by fishing and the ocean environment. Some stocks would rebuild fairly quickly if the cause of their low numbers was fishing, but stocks would not rebuild if the cause of low numbers was the ocean environment.

6. In your testimony you note that the gulf of Maine cod quota was 10,000 tons, yet only 4,000 tons were harvested. Why did that happen and what can be done to change that situation?

The cod quota was not caught because of constraints in the catches of other species. This can be eliminated by applying the mixed species exclusion.

7. Many people argue for ecosystem management, but then refuse to allow for the intentional "fishing down" of certain stocks such a dogfish to allow for rebuilding of other stocks. Can NMFS currently allow the intentional "fishing down" of stocks? If so, why are they hesitant to do so?

It seems to me that NMFS can allow intentional fishing down of stocks by interpreting the Magnuson-Stevens Act to allow this. I do not know why they are hesitant to do so. If we are serious about ecosystem management, then we need to look at the fishery as a whole, not look at the fishery species by species.

8. How would your idea for an independent fishery reform commission work? Is this something NOAA could create now or should Congress look at authorizing something like this?

NOAA of course could create a fishery reform commission, but I think that this commission needs to report to Congress. To me, this has high priority.

9. If the sector system implementation is unlikely to be postponed, are there any short-term things that could be done by NMFS to help soften the impacts?

There are many short-term things that could be done by NMFS to soften the impacts. One of these is to be flexible in the amount of fish that can be caught. It appears that this is happening with skate and pollock. How all of this will work out, I do not know.

10. How many years would it take to get better stock assessments that could lead to more realistic quotas? What should Congress be telling NMFS to do to get better information?

There are two parts to this. One is getting more data from fishing vessels, and the second is to use modern computer techniques and information systems to transmit the data to all users. It seems that this is a short-term problem.

11. Do you think there should be minimum scientific information available before a Council can consider a catch share management system?

I think it is fair to say that not only minimum scientific information but many other aspects of the catch share system were not in place at the time it was implemented. It was known that the dogfish shark was at a high level of abundance for some time, but this was not announced until two months into the catch share system. The pollock stock is supposed to be five times greater than previously reported according to press releases from conservation groups. The availability of pollock is critical to business decision making. Why do we need to wait months before the quota is set? Issues with skate are similar. I think it is fair to say that the system was not ready to go for a number of reasons, including minimum scientific information.

12. You feel that the New England Council is dysfunctional. Other than a complete change, what step should be taken to make the Council process work better?

I believe that the New England Council has become disenfranchised from the fishing industry. Doing a better job of working with the constituencies would improve matters materially. The Council Chairman wrote a letter to the Secretary citing concerns with the management of the Council, yet his concerns, to my knowledge, have never been publically addressed.

13. Congress required that the Councils' Science and Statistical Committees meet concurrent with the Council meetings. This was done partly as a result of the disconnect between the scientists and the fishing industry in New England. Has this change made any difference in the New England Council and the ability of fishermen to understand how scientific decisions are made? If not, why not?

I do not find that changing the meeting day has contributed to improving the understanding of fishermen regarding how scientific decisions are made. One of the reasons is simply a lack of communication. This lack of communication is physically reinforced by the fact that there are thousands of fishermen and it is difficult for a reasonably representative proportion of them to interact with the Science and Statistical Committees.

Ms. BORDALLO. I thank you very much, Dr. Rothschild. Mr. Alexander, you are the last to testify on the second panel. Please begin.

STATEMENT OF CAPTAIN TERRY ARNOLD ALEXANDER, FISHING VESSELS JOCKA AND RACHEL T

Mr. ALEXANDER. Good morning. Members of the Subcommittee, thank you for the opportunity to testify regarding catch share management of commercial fisheries.

I have been a commercial fishermen vested in the New England ground fishery for over 30 years. I am currently the president of the board of directors of the Sustainable Harvest Sector. We are over 100 groundfish permit holders—from Maine, New Hampshire, Massachusetts, Rhode Island, New Jersey, and New York—who have joined to fish under catch share management in New England groundfish beginning May 1, 2010.

The management of New England groundfish, which includes 19 different fish stocks, has produced extraordinary biological results over the past 20 years. Many of the stocks within the complex are at the highest levels since the 1980s. The status of others continue to perplex scientists, managers, and the industry. For example, during the last five years, commercial fishermen in New England have under-harvested scientifically based catch limits for some stocks by millions of pounds, only to be informed that retrospective patterns have reversed the positive projections of earlier stock assessments.

These biological gains were achieved at the cost of hundreds of New England groundfish businesses and jobs. For example, from 2001 to 2007, the number of active vessels in New England ground fishery has shrunk from nearly 1,100 to 574. And in Massachusetts, from which the largest percentage of vessels——

Ms. BORDALLO. Mr. Alexander, could you please talk a little closer to the microphone, please?

Mr. ALEXANDER. Sorry.

Ms. BORDALLO. Thank you.

Mr. ALEXANDER. For example—where was I? Massachusetts, which has historically held the most number of active vessels, has declined from 629 vessels to 300. In Maine, less than 75 boats remain in the fishery, and groundfish have plummeted from 30 million pounds to 6 million pounds. The loss of these businesses and jobs came well before the implementation of catch shares. And make no mistake about it, with or without shares, more business and jobs will be sacrificed in New England because the continued job loss cannot be attributed to any particular management scheme but, instead, can be directly attributed to the stringent rebuilding requirements of the Magnuson-Stevens Act.

Many Members of Congress have said that the intent of the Magnuson Act was to protect communities as well as fish populations, but that is not the outcome we have experienced in New England. Let me be perfectly clear, the Sustainable Harvest Sector is not embracing catch share management. We have been a long-term vocal opponent of catch shares, but we have now come to the conclusion that under the current mandates of the law and facing the alternative of only 24 allowable days to fish, catch share management in New England groundfish is the lesser of two evils.

The catch share program for New England groundfish was developed over a three-year process with considerable input from stakeholders. We are not satisfied with all of the design details. In par-

ticular, we oppose the plan to shift monitoring costs to an industry that cannot afford the cost. Congress must provide the funding for the cost of the catch share monitoring. Projected costs for at-sea monitoring alone for New England groundfish sectors is close to $5 million annually.

NOAA should prioritize funding for monitoring of the existing catch share programs before advocating for new or expanding catch share programs, a buyout that is crucial to lessening the negative impacts of the impending restrictions on the New England groundfish industry. We have known for decades that there is an over-capacity problem in New England groundfish. A buyout could remove that excess capacity, give those who wish to leave the industry a dignified way to exit, and allow those who remain to increase allocations at a minimal cost. Congress must provide the funding necessary for a buyout or advance the industry-funded buyout proposal.

If catch share management of New England groundfish is to succeed, we need a greater investment in stock assessment science. It is clear that NOAA's budget request places priority on a catch share agenda over the goal of improving stock assessments. We would like to see improved science as a number one priority of NOAA.

Fishery science at its best is guesswork. The stock assessment models are based on assumptions, and outputs are called projections. Yet the Magnuson Act continues to hold fisheries managers and industry to arbitrary time frames and unrealistic goals. The most important message I have to convey today is Congress must amend the Magnuson Act in a way that clearly articulates the flexibility necessary for fisheries managers to restore fisheries resources while preserving fishing communities. Thank you.

[The prepared statement of Mr. Alexander follows:]

Statement of Terry A. Alexander, President, Sustainable Harvest Sector, Cundy's Harbor, Maine

Chairwoman Bordallo and members of the subcommittee, thank you for the opportunity to testify regarding catch share management of commercial fisheries.

I have been a commercial fisherman vested in the New England groundfish fishery for over 30 years. I am currently the President of the Board of Directors of the Sustainable Harvest Sector. We are over 100 groundfish permit holders from Maine, New Hampshire, Massachusetts, Rhode Island, New Jersey, and New York who have joined to fish under catch share management in New England groundfish beginning on May 1, 2010.

The management of New England groundfish, which includes nineteen different fish stocks, has produced extraordinary biological results over the past 20 years. Many of the stocks within the complex are at the highest levels since the 1980s. The status of others continues to perplex scientists, managers, and the industry. For example, during the last five years, commercial fishermen in New England have under-harvested the scientifically based catch limits for some stocks by millions of pounds, only to be informed that "retrospective patterns" have reversed the positive projections of earlier stock assessments.

These biological gains were achieved at the cost of hundreds of New England groundfish businesses and jobs.

For example, from 2001 to 2007 the number of active vessels in the New England groundfish fishery has shrunk from nearly 1100 to 574, and in Massachusetts, from which the largest percentage of vessels has historically hailed, the number of active vessels has declined from 629 to 300. In Maine, less than 75 boats remain in the fishery and groundfish landings have plummeted from 30 million pounds annually to 6 million pounds.

The loss of these businesses and jobs came well before the implementation of catch shares—and make no mistake about it—with or without catch shares, more businesses and jobs will be sacrificed in the New England groundfish industry.

The cause of continued job loss cannot be attributed to any particular management scheme, but instead can be directly attributed to the stringent rebuilding requirements of the Magnuson Stevens Act. Many Members of Congress have said that the intent of the Magnuson Stevens Act is to protect fishing communities as well as fish populations, but that is not the outcome we have experienced in New England.

Let me be perfectly clear—the Sustainable Harvest Sector is not embracing catch share management. We have been long-time vocal opponents of catch shares—but we have now come to the conclusion that, under the current mandates of the law, and facing the alternative of only 24 allowable days to fish, catch shares management of New England groundfish is the lesser of two evils.

The catch share program for New England groundfish was developed over a three-year process with considerable input from stakeholders. We are not satisfied with all the design details. In particular, we oppose the plan to shift monitoring costs to an industry that cannot afford those costs.

Congress must provide funding for the costs of catch share monitoring. Projected costs for at-sea monitoring alone for New England groundfish sectors is close to $5 million dollars annually. NOAA should prioritize funding for monitoring of existing catch share programs before advocating for new or expanded catch share programs

A buyout is crucial to lessening the negative impacts of the impending restrictions on the New England groundfish industry. We have known for decades that there is an overcapacity problem in New England groundfish. A buyout could remove that excess capacity, give those who wish to leave the industry a dignified way to exit, and allow those who remain to increase allocations at minimal cost.

Congress must provide the funding necessary for a buyout, or advance an industry-funded buyout proposal.

If catch share management of New England groundfish is to succeed, we need a much greater investment in stock assessment science. It is clear that NOAA's budget request places priority on a catch share agenda over the goal of improving stock assessments. We would like to see improved science as the number one priority of NOAA.

Fisheries science, at its best, is guesswork—stock assessment models are based on "assumptions" and the outputs are called "projections". Yet, the Magnuson Stevens Act continues to hold fishery managers and the industry to arbitrary timeframes and unrealistic goals.

The most important message I have to convey today is this: Congress must amend the Magnuson-Stevens Act in a way that clearly articulates the flexibility necessary for fisheries managers to restore fisheries resources while preserving fishing communities.

Response to questions submitted for the record by Captain Terry Arnold Alexander, Fishing Vessels Jocka and Rachel T.

Questions from Congressman Jay Inslee (D–WA)

1. **This is the second hearing that we have had on catch share fishery management programs, so there has been a lot of discussion about catch shares. But I'm not sure we have heard from many witnesses that actually have participated in catch share programs. . Can you tell me your experience fishing in a catch share program? Do you have a federal permit to fish in a catch share managed fishery?**

Response: I have been the President of the Board of Directors of the Sustainable Harvest Sector (SHS) for the past two years. The Board has developed the bylaws and the operations plan, reviewed the applications of individual sector members, hired a manager and we are now overseeing the manager's activities.

I own two federally permitted multispecies vessels, and several federal multispecies permits that are enrolled in the SHS. Due to the low allocations made to each of my vessels/permits, I have had to retire one vessel and consolidate the allocations onto the remaining vessel.

I have made one successful fishing trip under the SHS operations plan since May 1 2010. Other than the complicated and sometimes duplicative reporting required by the National Marine Fisheries Service, I am, to date, satisfied with my fishing experience under the SHS operations plan.

2. I understand that "sector" catch shares are going into effect in only a few short weeks in New England groundfish. Have any sector managers asked to delay implementation? And it sounds like you're saying that fishermen stick with status quo regulations rather than shift to sectors. If so, why have fishermen who collectively comprise 98% of the available fish opted into sector management? Are you suggesting they don't know what they are doing?

Response: To my knowledge no sector managers have asked for delay—certainly the SHS manager and the SHS Board have not asked for a delay.

I believe you have misunderstood my comments: I did not say that fishermen want to stick with the status quo regulations. I said, in my testimony, that members of the SHS chose sector management as the lesser of two evils. I believe it would be fair to say that is why the majority of active fishermen (as defined as those with 98% of the allocation) chose sector management.

It is important to reiterate that the alternative to sector management in the New England multispecies fishery is an allocation of 24 allowable days to fish – that combined with very low annual catch limits, is likely to be a result in a very short derby fishery.

Questions from Republican Members

1. Dr. Rothschild predicts that there will be a 50% drop in employment due to the new sector system Do you think he's accurate?

Response: I am not an economist.

As stated above, I have had to retire one of my vessels, and had to lay off the crew, so in my own company, 50% of the crew is no longer employed by me. I do not know if they have obtained new jobs.

As I said in my testimony, many jobs in New England multispecies fishery were lost prior to the implementation of sector management, and many more will be lost regardless of the type of management system that is used.

The fundamental problems in the New England multispecies fishery are overcapacity and inflexible legislation.

2. You apparently did not support the switch to a sector allocation scheme, yet you are reluctant to continue the days-at-sea management system. Are there any other alternatives?

Response: The only way to make the New England multispecies fishery economically viable is to reduce capacity and to provide more flexibility to fisheries managers. Congress must authorize a buyout and clarify the Magnuson Stevens Act. If Congress would eliminate the referendum requirement for New England individual transferable quota (ITQ) programs, we could transition the multispecies sector management program to an ITQ. This would reduce cost and increase the accountability of individual participants.

3. The changes to the Magnuson-Stevens Act which require individual fishery accountability were an effort to change the balance between ecological concerns and economic concerns. Do you think the language in Magnuson went too far? If so, what should Congress look at to correct this balance?

Response: I disagree that the changes to the Magnuson Stevens Act were not made with the intent to "balance . . . ecological concerns and economic concerns". The latest changes to the Magnuson Act were advocated for by environmental organizations that have made a profession of securing unreasonable legal mandates, and then suing the government when fisheries managers fail to achieve unrealistic deadlines. The latest changes to the Magnuson Stevens Act added yet another deadline to "end overfishing immediately". While I would agree that ending overfishing should be the primary goal, there are circumstances in the New England multispecies management plan where overfishing has been ended over a 2–3 year timeframe with far less negative economic impact.

4. Some fishermen have complained about the new accountability measures being implemented by NMFS. Do you also have concerns, and if so, what are your specific concerns? What suggestions would you give Congress to correct these concerns?

Response: It is unreasonable, in a multispecies fishery, to allow one or two problem stocks to control the entire fishery. For example, the most recent assessment of Gulf of Maine winter flounder was rejected by the peer reviewers, who also recommended not using the assessment to set management advice. However, the assessment was used to set an annual catch limit of roughly 150 mt. The combined

annual catch limits for all other species found in the Gulf of Maine is several hundred thousand metric tons. So, in short, Gulf of Maine winter flounder could easily, and very quickly shut down the entire Gulf of Maine, resulting in loss of millions in fisheries revenue.

I am neither a fisheries scientist nor a lawmaker, so my advice to Congress is limited to my common sense approach to fisheries management and the economic viability of my business. Therefore, I can only suggest that Congress should make it clear that in the case of multispecies fisheries, a combined annual catch limit should be set, rather than individual catch limits for each species.

5. It seems that all of the panelists today would agree that prior to implementing a catch share management system, NMFS must have good data on the status of the fishery, the ecological needs of the fishery, and the economic needs of the fishery. Does NMFS have this type of information on New England groundfish? If not, how can they effectively implement a new management system?

Response: If Congress expects NMFS to be able to set and monitor appropriate catch limits for a multispecies fishery, then Congress needs to invest a great deal more money into more frequent stock assessments and more money into catch monitoring. The cost of these essential activities cannot be borne by the industry.

6. I understand that at least one component of the New England groundfish fishery is still going to be managed under a days at sea system. Why is that being done and how will this work?

Response: My understanding is that the Northeast Regional Administrator now has the authority to make in-season adjustments to the days at sea system to reduce trip limits and adjust the days at sea counting rate. Since this portion of the fishery will not be monitored at the same high level as the sector management system, I expect that the RA will have to make projections that will result in reduced trip limits and high differential days at sea counting rates, which will all combine to quickly close the days at sea fishery.

7. According to a NOAA document, they are suggesting that there are 8 potential catch share programs that may be developed or implemented in the next two fiscal years (not including the groundfish multi-species fishery). These include: sea scallops general category, monkfish, whiting/hake, sea scallops sectors, herring, dogfish, mahogany quahogs, and skates. Any comments?

Response: The northeast Monkfish fishery is an essential component fishery to New England multispecies fishery and therefore it makes sense to transition monkfish to a catch share system so that fishermen do not have to operate under a dual system of days at sea and catch shares. However, before the NMFS goes much further with catch share management of fisheries other than monkfish, we need to give everyone some time to make the multispecies catch share system workable.

Ms. BORDALLO. I thank you, Mr. Alexander. And I will now recognize Mr. Frank Pallone from New Jersey for any questions he may have.

Mr. PALLONE. Thank you, Madame Chairwoman. I first want to thank you for holding this important hearing, and I do want to also thank Captain Alexander for his statement. I know it is not directly on point today, but your support for Magnuson flexibility and for more science and emphasis and priority on science and research I think is really important.

But today, we are talking about catch shares. And I just wanted to express my concern with catch share plans and the process that is moving forward on them. Let me just express some of my concerns. First, will fishermen be priced out and be denied access? Will they create consolidation and force job losses? What will be the mechanism for adjusting allocations between recreational and commercial sectors, and will Councils have the ability to choose which

management tool to use if needed funds only come with catch shares?

Now these issues have grave consequences, and I am afraid that NOAA is moving forward with implementation without fully addressing these issues of great concern. And at the end of the day, my concern lies with my constituents. Will my constituents have fair access to a public resource that has served our community so well over the years? Our fisheries are not only an economic driver, but provide invaluable recreational enjoyment for the millions that use our nation's coastal waters.

Now let me first thank you for including Mr. Donofrio from the RFA as one of the panel members today. I actually missed part of your opening there because my Health Subcommittee was meeting. But let me just get to a couple of questions, Jim, in the time that we have. You are aware that $54 million has been allocated for catch shares in NOAA's Fiscal Year 2011 budget request—an increase of 100 percent. NOAA repeatedly states that catch share implementation will be at the discretion of the Regional Councils. However, this seems to be a classic stick and carrot routine, where the Councils must implement catch shares to access the needed funds for the science and research.

How do you see the Council process playing a role in implementation of catch shares? And are the Regional Councils being pressured into utilizing catch shares?

Mr. DONOFRIO. Thank you. Good morning, Mr. Pallone. Good question, and as I said in my written testimony, as I said to the Chairwoman, we had a recreational fishing summit last week, as you are aware of. And I got a chance to talk to Dr. Lubchenco frankly about some of the things that happened the first five minutes of this Administration. As you know, the Administration came in and took sitting incumbents off the Councils, sitting incumbents that had a track record of showing up, attending other committee meetings, doing all of their homework, and replaced them with pro-catch share people that had no experience on the Council before. This is unheard of.

As you know, over the years, incumbents normally, when they are doing a good job, they stay, whether they are recreational or commercial or environmental. If they are doing a good job, they stay. The Administration took a hostile position toward these people. And again, we are seeing them stack the deck. That is what it appears. They are running in a panic state here to get into catch shares without having the discussion with the user groups, including the commercial people. Some want it, some don't. But let them decide through their leadership rather than have it shoved down their throat. And that is how we feel.

Mr. PALLONE. Well, it disturbs me a great deal, Jim, because, historically, these Councils and the decisions have not been that political, have not been that ideological, and it really pains me to think that that is what happening now. And I think we really—it shouldn't be the way things are done.

But let me issue a second question. I believe—I have said it is my constituents' right to fish and utilize public resources, such as summer flounder or black sea bass fishery. What effect do you an-

ticipate these catch shares are having on the ability of recreational anglers being able to access public resources?

Mr. DONOFRIO. I think it is going to almost shut us down completely. And as you know, we are already shut down in sea bass in a completely rebuilt fishery. So, I can imagine if we have a catch share, we are going to have no fish to divide amongst the boats and the private citizens they are actually targeting. We are going to have nothing left here.

Mr. PALLONE. And then I have heard from a lot of constituents that catch shares will hurt local businesses such as tackle shops and marinas. I have also heard from commercial fishermen, such as the Belford co-op in my district, that they have concerns over the implementation of catch shares.

I know you are here today representing the RFA, but can you give me a sense of what the impact of catch shares may be on the fishing industry in general, and what you are hearing from some organizations other than the RFA, for example?

Mr. DONOFRIO. Well, absolutely. As you may recall, on February 24th, when we were down here for our rally, catch shares was a big issue. And we had some conversations regarding state seafood and others in the commercial sector, and I believe they feel they want to discuss this amongst themselves, rather than have it forced down their throats. And that is exactly—they feel there is a political agenda here again with NOAA, and we see it. It is obvious. It is transparent. And I think this is where we come to you, Mr. Pallone, and the Chairwoman to help us.

Mr. PALLONE. I appreciate it. Thank you. And thank you, Madame Chairwoman, for having this hearing. I know we have a lot of time constraints today, and I appreciate your bearing with us.

Ms. BORDALLO. Thank you very much to the gentleman from New Jersey. And I do have a few questions here before we close out today. The first is a question for Mr. Donofrio. Can you envision a situation where the commercial side of a fishery is managed by catch shares, and the recreational allocation is open-access? Is that what you are suggesting for fisheries where catch shares are developed?

Mr. DONOFRIO. No, not at all, Madame Chair. Our position is if it is a tool for the commercial sector, as it has been in certain fisheries in Alaska and others, the commercial sector needs to decide where it is. What we are hoping for, if NOAA is going to move rapidly and get into all of the East Coast fisheries here and Gulf fisheries, where there are multiple users, both commercial and recreational, before they decide, then we want to talk about allocation criteria because we want to revisit that again.

For instance, we filed a petition for rulemaking with the courts to split the summer flounder 50/50. It is 60/40 now—60 commercial and 40 recreational. And we failed on that level. But we would like to at least revisit those kinds of allocations before there is any catch share set in motion on the commercial sector.

Ms. BORDALLO. And the next question I have is for Mr. Dooley. Given your very positive involvement in catch share programs, how do you reconcile your experience with the concerns you have heard expressed here today?

Mr. DOOLEY. I hear a lot of concerns about going into catch share programs. We had those very same concerns when they were first proposed to us and brought up through industry as a proposal. But once they were instituted and understood, how to maximize our catch and maximize the benefit, we soon learned that that was the way to go.

One example of that and how it might pertain to the West Coast fishery is that you have—right now, you have a fishery that is constrained by catch limits, or your trip limits, and it is constrained by regulatory discards. That was my reference in my testimony to a fishery that is worth $25 million that should be worth $70 million. That fish is being either left in the water or thrown in the water, discarded, no value being taken out to the communities or the fishermen. That would be solved by catch shares.

These fish would be allocated to the fishermen. And as I have experienced in my experience in Alaska, the challenge then is to the fishermen to figure out how to harvest it with the use of new gear technologies, new methods, and area management to be able to harvest fully this resource and maximize the benefit. Once you maximize the benefit, the cost, such as observer cost, become less significant because you are able to realize so much more value out of your product. The communities become much stronger because of that added value. You are able to pay your bills instead of having a part-time job. That is really important.

I also hear concerns about consolidation. And consolidation isn't always bad. You know, the benefit of a catch share program is that it voluntarily lets a person with a quota, a permit holder, a vessel owner, to choose whether this is a season with enough catch in a quote to employ, like in my hometown, seven vessels, or would you just use four this year. Right now, those vessels are going out, maybe once every two months, to fish a very few days for these catch limits.

They are not being able to have full-time jobs. They talk about job losses. Jobs that are a day or two every month are not a job. But a job that is a sustainable job, based on the resource and based on the added value, now that is a job that is a benefit to the community and the safety of the vessels.

Ms. BORDALLO. Mr. Dooley, I know you have a large vessel, or a big boat, whatever way you want to put it. What about the little guys?

Mr. DOOLEY. Actually, that is a good question. I do have a big vessel, but I also came from a small town. And I have many, many relatives and friends that have worked for years. And I am concerned with them. I think that this program is critical to their livelihood. When they talk about this fishery being consolidated and taken over by a few owners or a few entities, that is what the West Coast rationalization program has addressed, and it has been addressed over a six-year program. This can't happen. There are control limits that are applicable to each fishery, whether it be the inshore groundfish fishery, non-whiting, or the offshore whiting fishery, or the inshore whiting fishery for that matter.

These protect the character of the communities. They keep the fishery in the hands of individuals rather than huge corporations. They prohibit this consolidation and this monopolization of a quota.

The way it is now, without the catch share program, that can happen right today, and is happening today. With the catch share program implemented as the Pacific Management Council has proposed, this won't happen. It prohibits—the social engineering has been figured into this plan.

Ms. BORDALLO. Another question for you. Your first point in your testimony is that the West Coast trawl rationalization program is not an example of NOAA headquarters trying to impose catch shares on the fishery. From your experience then, how can other communities ensure that any catch share programs involving them are developed from the ground up?

Mr. DOOLEY. I really can't speak to the East Coast, and I hear their concerns. However, I can relate what has happened on the West Coast and in Alaska. Those programs were not mandated from on high. Those programs were built from industry, asked for by industry. Communities, fishermen, processors—everybody has had a seat at the table, gone through committee processes, opened public hearings and opened public process of the Council meetings, and many side committee meetings that ranged up and down the coast so people could attend these meetings to put their input into this program, over six years for the West Coast rationalization program. And I believe that is critical to this.

Another critical part is that all the way through the process—now with the new deeming requirements the Pacific Council has taken on, industry, public, everyone has had the opportunity to view the regulations coming forward as they are being written and as they are being approved by the Council, before they are published. So, it is a really transparent, open process, and they have vetted many, many concerns.

And I might add, I heard Mr. Moody talk about adaptive management. That is the Council's tool to take care of unforeseen problems with this program. And I think they have done a stellar job of putting this together and making sure that all of the concerns are being addressed. However, they also realize this will not be a perfect program coming out of the box. So, they have reserved 10 percent to take care of these unforeseen problems. I think it is a great job they have done.

Ms. BORDALLO. I would like to thank you for answering these questions, and I thank all of the witnesses for their participation in the hearing today. Members of the Subcommittee may have some additional questions for the witnesses, and we will ask you to respond to these in writing. In addition, the hearing record will be held open for 10 days for anyone who would like to submit additional information for the record.

And if there is no further business before this Subcommittee, the Chairwoman again thanks the members of the Subcommittee and our witnesses for their participation here this morning. And the Subcommittee now stands adjourned.

[Whereupon, at 12:06 p.m., the Subcommittee was adjourned.]

[Additional material submitted for the record follows:]

[A statement submitted for the record by Richard B. Allen, Commercial Fisherman and Fishery Consultant, Westerly, Rhode Island, follows:]

Statement submitted for the record by Richard B. Allen, Commercial Fisherman and Fishery Consultant, Westerly, Rhode Island

I appreciate the continuing interest shown by the House of Representatives in the well-being of the New England fishing industry. History tells us that the second Act of the First Congress, passed on July 4, 1789, included a subsidy for the New England fishing industry, sponsored by Massachusetts' own Representative Elbridge Gerry of Marblehead. This bit of history offers more lessons than may be immediately apparent. At the time of the American Revolution, Marblehead was considered the premier fishing port in New England and held that position until it was surpassed by Gloucester in the mid-1800s. Marblehead disappeared from the list of major U.S. fishing ports sometime in the distant past and appears to have no interest in regaining its former status. The fate of fishing communities, like other communities, has been, and will continue to be, determined by many factors, most of which have nothing to do with catch shares.

Anyone reading the fishing news today might think that the history of the New England fishing industry was all sweetness and light until the New England Fishery Management Council decided to limit fishermen's future catches based on their catch history. The facts are that the Council has spent the last 30 years trying every conceivable idea for fixing a system that was failing both the fish and the fishermen. Each of those attempts was marked by frustration, controversy, and fishermen's protests that were at least as emotional as those that we see today.

Those who protest the current changes in fishery management seem to ignore history and lack a workable alternative. The claim that catch shares will privatize our fisheries ignores the fact that almost every major fishery in the United States has operated under a system of limited, transferable permits for many years. These permits are not divisible and they are often expensive. The existing system of transferable permits poses more of a barrier to entry into the fisheries than will divisible quota shares. I have always opposed limited entry into fisheries because the number of permits in any given fishery is an accident of history, rather than a rational response to market forces. One of the reasons that I support catch shares is that catch shares make limited entry unnecessary, opening fisheries up to broader ownership opportunities, including crew members who may never have been able to buy an expensive permit. Ownership of catch shares by crew members is common in catch share fisheries, but is unheard of with limited permits.

I began my fishing career in 1964, digging quahogs with hand tongs. I worked as a crewman on lobster boats and trawlers until I could afford the down payment on my own small boat. During the 1970s, when I bought my first boat, permits were not limited and permit fees were minimal to non-existent. Various government and private lending sources made it relatively easy for a fisherman to buy his first boat or to expand his fishing business.

The ease of entry into the fisheries can be seen in the number of groundfish boats that entered that fishery during the 1970s and early 80s. The number of vessels landing Northeast groundfish during the 1960s and early 1970s, prior to the passage of the Magnuson Act with its 200-mile fishery jurisdiction, was relatively stable at 500-600. During the late 1970s and early 1980s the groundfish fleet doubled to more than 1100 boats. New boats continued to enter the fleet during the 1980s, but vessel losses approximately equaled the new additions and the fleet remained relatively stable.

The increase in vessel numbers coincided with a rapid increase in the catching capacity of each vessel. Prior to 1970, most New England groundfish boats were side trawlers, relatively inefficient compared to the newer stern trawlers that entered the fleet after 1970. The newer boats also tended to have higher horsepower, better winches, more sophisticated electronics and better nets. All this new equipment made it easier for fishermen to find fish and to catch them in areas that had not been accessible to older boats.

While the passage of the 200-mile limit enabled the United States to exclude foreign fishing vessels from coastal waters, it also restricted the fishing grounds available to the boats that had historically landed the most groundfish in New England. In 1984, when the expansion of the New England groundfish fleet reached its peak, the stocks available to the groundfish fleet were further restricted by the World Court decision that established the U.S.-Canadian Maritime Boundary. That decision gave Canada exclusive rights to the rich fishing grounds on the eastern side of Georges Bank. The result of all of these developments was that the New England fishing industry came out of the 1980s with an expanded fishing fleet that was capable of catching far more than the limited stocks then available could produce. The contraction of the New England fishing fleet that has been seen since the mid-1990s was inevitable—the increase in catching capacity that occurred in the 1970s and

1980s was not sustainable. The local stocks suffered while the fishery management system struggled to bring the fishery under control. We are still in the process of adjusting to disruptions that occurred twenty to thirty years ago.

Also during the 1970s, I helped to found a fishermen's organization and worked to protect fishermen from the threats facing the industry at that time: foreign fishing in local waters; offshore oil drilling; foreign imports; escalating insurance costs; and limited entry, including catch shares, which I was determined to thwart.

In the 1970s and 1980s, the Bureau of Commercial fisheries and its successor, the National Marine Fisheries Service, along with many state fishery agencies, was pushing limited entry and catch shares. I was part of the opposition. In 1978 I told a National Conference on Limited Entry that there were too many bureaucrats chasing too few fishermen, suggesting that we would need to divide up the limited number of fishermen among the competing bureaucrats. At that time I would have agreed completely with those who are protesting against catch shares today.

In the mid-1980s I became so angered by the fact that the National Marine Fisheries Service was putting the power of the federal government behind the push for limited entry and catch shares that I set out to prove that fisheries were essentially self-regulating, with no need for artificial limits on the number of fishermen or how much they could catch. My research, however, convinced me of just the opposite.

One of the most important pieces of information that I gathered during my attempt to discredit limited entry and catch shares was an article by the late Francis Christy. Christy explained how traditional fishery conservation regulations work by making it too expensive for fishermen to catch too many fish. Closed areas make fishermen fish where the fish are scarce, trip limits force fishermen to waste fuel and time making multiple trips when they could land more fish in one trip, size limits and trip limits force fishermen to kill fish more fish for the same amount of income. I could see exactly what Christy was talking about in the regulations that we faced in New England.

I remember one meeting of the New England Fishery Management Council's Groundfish Committee where a frustrated fisherman told the Committee: "You know where we fish, close the area." The obvious, but somehow acceptable, result of closing the areas with the best catch rates was to make fishermen fish harder to catch the same amount of fish. This provided little benefit to the fish stocks and a great deal of economic harm to the fishing community. When the original closures proved ineffective at conserving the stocks, more areas were closed.

Francis Christy not only explained the problem facing fishermen and fishery managers under traditional management approaches, he suggested a solution. In 1972 Christy proposed fishermen's catch shares as a way to achieve conservation while letting fishermen decide how to run their own businesses. Within a few years, fisheries around the world were experimenting with this new idea, most often called individual fishermen's quotas, or IFQs.

In the United States, Wisconsin was apparently the first state to implement IFQs for a significant commercial fishery in 1979. That program was expanded in subsequent years and my contacts in Wisconsin tell me that the program continues to work well. In 1995, when I first met Charlie Henriksen, the President of the Wisconsin Commercial Fishermen's Association, he told me that the ITQ system had saved the Wisconsin commercial fishing industry from extinction. I have heard that same comment from fishermen in many catch share programs since that time.

There is no question that New England fishermen and their families are mad right now. From my perspective, however, I would suggest that most of the complaints are directed at the new catch limits, not at catch shares per se. Most of the New England fisheries were faced with reduced catch limits as the result of NMFS interpretation of the required annual catch limits that were incorporated into the most recent reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act. I believe that dissatisfaction with the resulting catch limits is the basis for most of the protests that have been organized by the fishing industry in recent months. If catch shares had been implemented without restrictive new catch limits, it is my opinion that catch shares would have received much more acceptance as a sensible way to manage our fisheries.

The opposition to catch shares can't be fully understood without considering the implications of real limits on the total catch. New England groundfishermen have not operated under hard quotas since the first attempt at quota management was abandoned in 1982. Quota management was abandoned because New England fishermen didn't want to stop fishing when the quota was reached.

New England opted to replace quota management with regulations that told fishermen how, when, and where they could fish. In the absence of strict quotas, every fisherman had an incentive to find a way to maintain or increase his catch despite regulations that were ostensibly designed to limit the total catch. The result was

ineffective conservation and continual tightening of the rules. As Francis Christy had explained, the tighter rules made it more expensive to catch fish, reducing the profitability of fishermen who could not keep ahead of the rules. That "race against the rules" was not sustainable for either the fish or the fishermen. Not only were the rules tightened, but Congress also tightened the law as well, eventually requiring the fishery management councils to impose annual catch limits and accountability measures on all fisheries.

Many New England fishermen believe that transferable catch shares will be necessary to provide fishermen with the flexibility to run economically viable fishing businesses in an era of hard catch limits. Fishermen will be accountable for their discards as well as their landings, another new challenge to New England fishermen. Transferable catch shares will make it possible for fishermen to adjust their quota holdings to their planned catch and to their realized catch. Most thoughtful fishermen who consider all of the requirements of the Magnuson-Stevens Act in its present form are likely to come to the conclusion that transferable catch shares are the only form of management that can meet those requirements while allowing a viable commercial fishery to exist. People who oppose catch shares do not seem to have any better suggestions for meeting the requirements of the Magnuson-Stevens Act in a way that will allow profitable fisheries to exist. Most of the opponents of catch shares seem to think that catch limits will go away if catch shares disappear. I'm not aware of any Congressional intent to eliminate the conservation requirements in the Magnuson-Stevens Act.

The benefits of catch share management don't stop at greater flexibility for fishermen. The fact that the catch share program will entail new at-sea and on-shore monitoring programs means that fishery scientists will have better data with which to measure the impact of fishing on stocks. Better data will have at least two positive results for New England fishermen: the reductions applied to annual catch limits can be reduced as the level of uncertainty goes down; and stocks are more likely to rebound if catches stay within prescribed limits.

It is my opinion that the opponents of catch shares in New England spent so much time just saying "No," that they ignored catch share design features that might have met some of their concerns. Amazingly, the New England groundfish plan has never had any accumulation limits for either permits or catch shares. The New England Council will be meeting in the near future to consider such limits. Other design features might be added to the groundfish plan to address social and economic concerns.

It has been almost 40 years since Francis Christy identified both the root cause of the chronic crises facing fishermen around the world, and the solution to that problem. Catch shares hold the potential to restore the flexibility that fishermen once enjoyed while maintaining an effective conservation program. I urge you to support the President's budget request for the support of catch share programs, including the necessary, continuing improvements in fishery science to establish appropriate catch limits.

[A statement submitted for the record by Rick Bellavance, President, Rhode Island Charter and Party Boat Association, follows:]

Statement submitted for the record by Rick Bellavance, President, Rhode Island Charter and Party Boat Association

For more than a quarter of a century, the ocean has been a central part of my life.

I take paying customers out to fish a variety of species, including summer flounder, striped bass, cod, tuna and shark. I grew up on the sea and learned about the ocean from my father. When I was 10, he bought me my first 12-foot wooden skiff, which I motored around Narragansett Bay. My father was also a high-school science teacher who taught oceanography, biology and aquaculture. For him, the sea has always been about education and respect. Together we now operate a two-boat charter fishing and diving business.

For much of my career I kept my head down and focused on what I do best—fish. But, as a charter-boat operator, an important part of my job is education. After spending thousands of hours on the ocean, one lesson is becoming increasingly clear—the ocean is not limitless; nor is our current industry model sustainable.

Fortunately, there is a solution that offers an alternative—the catch-shares system.

Catch shares are a way of managing fisheries that allocates a percentage of the annual catch to participating fishermen and monitors and enforces those allocations

while providing fishermen like me improved flexibility and control of our businesses. This means I decide when I fish and can provide my customers the excitement of fishing a run of summer flounder rather than limiting them to ever decreasing daily bag limits or seasonal closures.

This flexibility is critical to our livelihoods. How many people are willing to pay me enough to make a living so they have the thrill of bringing home a couple of small fish?

I've never participated in any formal conservation effort before, but our current system does very little to promote or encourage such efforts. Daily catch limits for the commercial fleet, which force the overfishing of many species and generate tremendous waste, will no longer be an issue under a catch-shares program. Illegal charters, which for years have ravaged our business through overfishing, will have a much tougher time operating under a catch-shares system that has more accountability.

To successfully implement a catch-shares system, certain challenges must be resolved, including allocations, monitoring and funding. Share allocations must be fair so that fishermen can make a living. Effective monitoring is essential to ensure that everyone is operating under the same and equitable rules, as well as to limit illegal charters.

Finally a funding system will need to be created that allows for the long-term existence of our industry. All of these concerns are a priority, and as someone who has been in the fishing industry for 25 years, I know they must be addressed.

But these challenges don't alter the fact that a catch-shares program will almost certainly be coming to our area because it has to. We can't keep operating under a system that has failed in every way. The charter-boat industry in particular struggles under the current system that uses seasonal closures, minimum size limits and bag limits. As a charter-boat operator, I give families and individuals the chance to experience the ocean and fish by boat. A collapse of our industry could eliminate their access to this experience.

These changes may seem difficult, but the current reality of our industry is even harsher. When I was young, one of my father's goals was to teach me how to read water. Reading the ocean now, it's clear that our fishing will not survive forever with the way things are now. The days when fishermen could catch as much as possible without any limits have passed. Catch shares are the best option I've seen to date, one that with the appropriate implementation, will let our industry continue to thrive for years to come.

[A letter submitted for the record by Gulf of Mexico Charterboat and Headboat Captains follows:]

April 2010

Subcommittee on Insular Affairs, Oceans and Wildlife
187 F3rd House Office Building
Washington, DC 20515

Dear Members of the Subcommittee on Insular Affairs, Oceans and Wildlife:

As charterboat and headboat captains living along the Gulf of Mexico coast, we feel that it is important to convey our support of catch share programs in light of the hearing that the House subcommittee on Insular Affairs, Oceans and Wildlife is holding on this management system on Thursday April 22, 2010. Many cherished fish stocks in the Gulf of Mexico have been severely depleted, resulting in smaller bag limits and shorter seasons that threaten the future of our fishing heritage. Commercial catch share programs restore fish populations for a given fishery by taking a previously established allocation for commercial harvest, subdividing it among the catch share participants, and holding them accountable for fishing within their specified portion of that overall limit. These programs help end overfishing, while preventing, and even reversing, the collapse of fisheries in the commercial sector, and we believe these programs, with adequate planning can similarly be used to benefit the for-hire (charter and headboat) sector.

We believe that a healthy marine resource is vital to the local economies of our coastal communities and is a significant contributor to the overall economy of each of our states. Catch share programs provide conservation benefits that result in more fish for everyone, and therefore more healthy and robust coastal economies. The catch share program currently in place for commercially-caught red snapper in the Gulf of Mexico has been extremely successful—it allows for fishermen to lower operating expenses, increases the price paid at the dock and meets high conservation standards, which has improved both economic performance and safety at sea.

For example:

- Bycatch (accidentally-caught fish that must be thrown back in the water and often die); has been significantly reduced;
- Reliable and timely data systems verify landings and transactions on commercial catches which provide the data needed to keep the sector within their regulatory catch limits;
- The fishing season has been extended from a few months to year-round, which has allowed fishing to take place when weather conditions are safe and prices are higher;
- Fishing businesses are earning more for their fish and spending less to catch them, while consumers are receiving a higher quality product.

Chronic overfishing is to blame for season closures which devastate the for-hire fishery and the amount of business it can receive. Catch shares are a tool that can end the overfishing, rebuildfish populations and help save fishing businesses, which will solidify the Gulfs reputation as a sportsman's paradise and keep fresh seafood in grocery stores and on restaurant tables.

Anglers are conservationists at heart. Therefore, we support catch shares in commercial fisheries. Furthermore, many recreational for-hire captains have learned about the flexibility and increased profitability in fishing under commercial catch share programs. We feel that similar programs should be explored and developed to meet the unique needs of the recreational industry.

Than t you for your commitment to a robust and healthy fishing industry.

Best regards,

Signature Evonn Caraway
Name (print) Evonn Caraway
Address 530 West 1st St.
Freeport, TX 77541

Signature [illegible]
Name (print) Amanda G. West
Address 9 Flounder Circle
Freeport, TX 77541

Signature Joshua Phillips
Name (print) Joshua Phillips
Address 601 Smith
Clute TX, 77531

Signature Louis E. Schaefer II
Name (print) LOUIS E. SCHAEFER JR.
Address 2210 TWIN OAKS BLVD.
KEMAH, TEXAS 77565

Signature Khalieb Benge
Name (print) Khalieb Benge
Address 2709 Shady creek
lane oyster creek Tx
77541

Signature [illegible]
Name (print) Steve Cunningham
Address 1100 Redfish
Bayou Vista TX

Signature Bill Cochr

Name (print) Bill Cochrane

Address 921 Marine #106

Galveston Tx 77550

Signature Michael W Jennings

Name (print) Michael Jennings

Address 138 Jolly Boat Ln

Freeport Tx 77541

Signature

Name (print) Mike Hitt

Address 3706 Dorothy

Pearland, Tx 77581

Signature

Name (print) Cole Sikes

Address 102 Rose Trail

Lake Jackson, TX 77566

Signature

Name (print) MIKE SEGALL

Address 107 Hummingbird ct

Richwood TX 77566

Signature

Name (print) David T. Cangelosi

Address ~~Ho~~ P.O. Box 9470

Jamaica Beach, TX 77554

Signature

Name (print) Matthew Schaal

Address 2501 Bragg Rd

Freeport, TX 77541

Signature

Name (print) James Plang

Address 1122 Moorea Rd

Galveston TX 77554

Signature
Name (print) L G Boyd
Address 3606 40th Ave N
Texas City, TX 77590

Signature
Name (print) Robby Mielsch
Address 223 Kamiha
Tiki Island Tx 77554

Signature
Name (print) Michael Robinson
Address 207 Blossomwood
League city TX, 77573

Signature
Name (print) Pete Cunningham
Address 1750 E. League City Pkwy. #523
League City, TX 77573

Signature
Name (print) John A. Williams
Address 5410 Trengwil Trace
Alvin, TX 77511

Signature
Name (print) SCOTT HICKMAN
Address 3202 SANDSHADOW CT
LEAGUE CITY TX
77573

Signature
Name (print) DAVID CONRAD
Address 4323 MOUNTAIN FLOWER CT.
Houston, TX 77059

Signature
Name (print) KEITH CARMAN
Address 109 Old Angleton Rd.
Lake Jackson, TX 77566

Signature
Name (print) Capt. Chad Hartman
Address Galveston, TX

Signature
Name (print) Mikey Roberts
Address 879 west 5th
Freeport tx 77541

Signature
Name (print) Dan Green
Address Houston TX

Signature
Name (print) Darrell J. Hingle
Address 7460 Cmdr Roland
Hitchcock, TX 77563
409. 766-0018

Signature
Name (print) Shane Cantrell
Address GALVESTON, TX

Signature
Name (print) MICHAEL H. COLBY
Address 25 CAUSEWAY BLVD
CLEARWATER, FL 33767
CAPTMIKE50@HOTMAIL.COM

Signature
Name (print) Raul R. Reyes
Address Freeport TX 77541

Signature
Name (print)
Address

[A letter submitted for the record by Mary Beth de Poutiloff, Scallop Fishing Family, F/V Patience Too, P.O. Box 1101, Provincetown, Massachusetts 02657, follows:]

Mary Beth de Poutiloff
Scallop Fishing Family
F/V Patience Too
PO Box 1101
Provincetown, MA 02657
muddog@midmaine.com
401–226–5955

April 30, 2010,

Greetings to the Members of the Catch Share panel,

Our country's economy is in dire straits. One of every six jobs in the U.S. is marine-related. Over 1/3 of the Gross National Product originates in coastal waters.

Our public resources are precious. We are about to lose them to privatization through Catch Shares. Catch Shares=Corporate Shares.

The solutions to our FMP's (fishery management plans) depend on input from fishermen, scientists, environmentalists and regulators. The special interests, namely EDF (environmental defense fund) has infiltrated key positions in NOAA/NMFS and the Council.

This imbalance has devastating effects on our environment, resources, fishermen and our communities. Fishermen are being ignored in the process of managing our resources. Cooperative research is also minimal.

EDF with their skilled public speakers, lobbying power, strong media ties and endless supply of money from the mega-corporations is driving the Catch Share train-wreck. Millions and millions of dollars is being dumped into pr campaigns supporting Catch Shares.

In some cases, news reports are being twisted beyond recognition. Recently, Mr. Wayne Moody, from Morro Bay, CA spoke to the committee against Catch Shares. The San Luis Obispo-Tribune's headline stated just the opposite. These media mishaps are happening too often to be coincidental.

Catch Shares have to be carefully devised to meet the mandates of the MSA (Magnuson-Stevens Act). In the general category scallop fishery, Catch Shares did not promote fairness, use science or consider the damage to small boats and their communities. How will we provide access for future generation? The abundance of scallops makes severe consolidation from Catch Shares unnecessary.

Catch Shares is discriminatory and the UN (United Nations) agrees. It is unfair to the fishermen who do not have access to capitol. Wealth is a prerequisite to fishing access.

This contentious tool is far too complicated to be used fairly. In my opinion, the gifting of resources to the minority, while the majority suffers loss of jobs, boats, homes and futures should never be considered. Catch Shares is a feudal system.

Fishermen are familiar with the oceans, the fish and our coastal communities. Why do we not have a seat at the management table? NOAA/NMFS and the Council are not looking for solutions. Their science and management plans have become agenda-driven. Frankly, FMP (fishery management plans) are being designed to fail. This should be disturbing.

Fishermen do NOT want Catch Shares. We are frustrated beyond belief through misrepresentation of our opinions by government agencies and the corporate- run media. We are at the point of having nothing left to lose. It is up to our elected officials to speak for "we the people" not" we the corporations".

The US fish stocks are healthy. To punish us further for global overfishing is a betrayal. US fishermen are abiding by the strictest fishing regulations in the world. We have made sacrifices while our fish stocks rebuilt. Over 80% of the seafood consumed in this country comes from countries that do not practice sustainable fishing.

Catch Shares will be bad for everyone (fish, fishermen and communities) except investors. Wall Street does not have the knowledge or inclination to protect and sustain our resources for generations to come. Public resources should not be sold.

I respectfully, am asking each and every one of you to implore the Secretary of Commerce to pass a 2 yr. Catch Share moratorium. This would allow us time to delve into the dysfunction, corruption and conflict of interest of the current system.

Respectfully,

Mary Beth de Poutiloff

[A statement submitted for the record by Shawn C. Dochtermann, Executive Director, Crewman's Association, F/V Isanotski, Kodiak, Alaska, follows:]

Statement submitted for the record by Shawn C. Dochtermann, Executive Director, Crewman's Association, F/V Isanotski, Kodiak, Alaska

Honorable Chairwoman Madeleine Z. Bordallo and Subcommittee members:

We would like to comment on Catch Shares as the focus on individual communities' negative experiences and concerns related to the adoption of this inappropriate management tool.

Catch Shares as a management tool are like a chainsaw that cuts off the access for most fishermen that actually prosecute the fisheries and rewards non-participants with the privilege to lease the fish back to the actual harvester.

The Crewman's Association is an advocate for the protection of Alaskan fishermen. We believe the implementation of a Catch Shares system which privatizes pub-

licly owned fisheries resource is destructive to local fishermen and coastal communities. The record shows that implementing Catch Shares does not necessarily protect fisheries resources. We believe there are other existing management tools which are less destructive.

Kodiak has experienced two Catch Shares programs over the past twenty years. Halibut and sablefish (black cod) catch shares were implemented in the 1990s under a program called Individual Fishing Quotas. The IFQ program eliminated 13,000 jobs in Alaska. The original plan mandated that the owner be on board the vessel and that quota shares could not be leased. This plan was not adopted. The result is that the majority of the initial quota share recipients have leveraged more quota shares using their initial free quota as collateral.

The second catch share program that has affected Kodiak and other coastal communities is the Bering Sea Crab Rationalization program, instituted in 2005. Before crab rationalization, sixty-four Kodiak vessels fished crab in the Bering Sea, primarily with Kodiak skippers and deckhands. Crab rationalization winnowed this fleet down to sixteen Kodiak vessels fishing crab in the Bering Sea. Those forty eight boats represent 264 crewmen jobs removed from our community.

Also, access to the fisheries, the right to fish on a crab vessel, is now leased to vessel operators by the crab owners at rates between 50% and 80% of the ex-vessel value of the crab. This is money which is taken off the amount from which crewmen are paid their percentages of the catch. This money, skimmed off the top, is estimated to be between $140 and $180 million over the past five years. Approximately $50 million would have flowed into Alaska's coastal communities. Now it is removed from the communities by absentee owners, which has led to serious and harmful economic and social consequences for coastal Alaskan communities.

These negative effects have occurred despite the assurances by former Chairman Dave Benton of the NPFMC that the concerns and interests of coastal communities would be addressed before catch shares programs would be implemented. In a letter to Congress on August 5, 2002 Chairman Benton stated:

"Rationalization will improve economic conditions substantially, for all sectors of the industry. Community concerns and the need to provide for economic protections for hired crew will be addressed."

In June of 2006, one year after the implementation of catch shares in the Bering Sea crab fisheries, the North Pacific Fisheries Management Council, the body which administers fisheries regulations in Federal waters of Alaska, came to Kodiak to listen to the views of the public on the issue. The overwhelming majority who testified spoke against fisheries privatization. Many spoke of the loss of income and jobs. Others testified that crewmen's rights had been ignored in the process of awarding ownership of the public crab resource to only one small segment of the industry—the vessel owners. And some testified that by awarding processor shares and mandating that vessels deliver crab to specific processors, the crab rationalization program had caused ex-vessel prices to fall.

With this negative experience of the privatization of fisheries in Alaska, the Crewman's Association views with alarm the imminent implementation of catch shares in the New England fisheries on May 1, 2010. We share the concerns of the Governor of Massachusetts, the Massachusetts Congressional delegation, and the mayors of Gloucester, New Bedford, Massachusetts, Kodiak Island Borough, Aleutians East Borough, and the City of King Cove, Alaska about the harmful effects on coastal communities of fisheries privatization.

Please carefully assess the effects of catch shares on coastal communities and on the men and women who fish in those communities before moving forward with new privatization programs. We also urge Congress and NOAA to examine the role of private investors and speculators in the fisheries privatization process. In order to provide time for these assessments to be made Congress and NOAA should establish a 2-3 year nationwide moratorium on the implementation of catch shares programs.

We also request Congress amend the Crab Rationalization program so that its economic benefits are "fairly and equitably" distributed—in line with economic sharing in accordance with their historical participation—to all segments of the fishery, especially crewmen and new vessel entrants.

[A letter submitted for the record by Food & Water Watch follows:]

Food & Water Watch
1616 P St. NW, Suite 300
Washington, DC 20036

Chairwoman Madeleine Bordallo and Subcommittee Members
Subcommittee on Insular Affairs, Oceans and Wildlife
The House Natural Resources Committee

April 30, 2010

RE: April 22,2010 oversight hearing on "A Community Perspective on Catch Shares."

Dear Chairwoman Bordallo and members of the Subcommitee:

Food & Water Watch (FWW) is a nonprofit consumer advocacy organization headquartered in Washington D.C. We work with grassroots organizations around the world to create an economically and environmentally viable future. Through research, public and policymaker education, media and lobbying, our Fish Program promotes safe and sustainable seafood for consumers while helping to protect the environment and support the long-term wellbeing of coastal and fishing communities.

Last week you heard testimony on a community perspective on catch shares from the commercial and recreational fishing communities.

FWW has a vision of healthy ecosystems supporting robust fish stocks that are both skillfully managed and sustainably used, in order to support the long-term socioeconomic wellbeing of coastal communities and the nation as a whole. Through research and policy analysis, we have worked to understand the root causes of previous global fishery management failures and models for reform, including the variety of catch share management programs.

The result of this work has been an understanding of the many problems privatized catch share programs have caused and will cause, if they continue to be implemented in the United States. It has also resulted in our support of a Fair Fish, "Cap-rent-recycle" model of catch share management. This model supports public control of wild fish stocks, provides flexibility for management improvement over time, and creates an evenhanded business setting. The attached factsheet, "Cap-Rent-Recycle: Common Sense on Catch Shares" provides more details on this approach.

The Catch Shares model that is currently being pushed by Fishery Management Councils is more of a "cap-giveaway-trade" model, which is essentially a privatization mechanism that takes a public resource out of the public's control. As echoed by Jim Donofrio at the hearing, this model violates the federal government's responsibility to hold this resource in the public trust, and allocate it fairly between citizens. In the same vein, Chairwoman Bordallo captured well the logical consequence of loss of the public control through fishery privatization—that it is difficult to reverse once implemented, and it results in "locking-in" access for certain user groups.

In fact, the lack of flexibility and failure to serve as a useful management tool over time has forced costly taxpayer-funded reform interventions in other regions. In 2007, the United Nations Human Rights Committee ruled that Iceland's privatized catch share systems violated international law, because the system forced fishermen to pay money to a privileged group of citizens who exclusively held the nation's fishing rights. After this ruling and repeated challenges in domestic courts, the newly elected government has proposed buying back all access units (catch-shares). They propose returning to a better management system by purchasing 5% of the quota each year over 20 years, so that it can once again be properly managed and allocated under the government's jurisdiction. (Unfortunately, Icelandic taxpayers have to buy back the quota at exorbitant above market rates in order to convince the private owners to sell back to the government.) The government then plans to directly rent access units to private parties while allotting some access units to fishing villages to manage within a community-based system. The attached factsheet, "Illegal Catch Share Programs: Learning from Iceland's Mistake" provides more information on this topic.

The system that Iceland hopes to achieve is similar to what FWW believes the U.S. should implement from the start. We urge you to recognize the failure of privatization programs in other countries, and support a better program from the start.

Congress included important provisions in the Magnuson-Stevens Fishery Management and Conservation Act to try to direct the design of limited access privilege programs toward balanced economic, social and environmental outcomes. By law, programs must include features to limit consolidation and control, and yet, in practice, these features are often weakened in regional programs as a result of special

interests, resulting in high levels of consolidation; protections from competition through perpetual privileges; and poor transparency on control and privilege transfer. These problems have been evidenced on the west coast for the Pacific Coast Groundfish Fishery Management Plan Amendment (A20 & A21); in the Northeast for the Multispecies Fishery Management Plan Amendment 16; and in the Gulf Plan Amendment 29.

Under privatized catch share programs, unfair allocation can prevent commercial fishing from being a viable economic activity for coastal communities. Many fishermen can lose their jobs, as well as the opportunity to respond to growing consumer demand for local, sustainably caught seafood from artisanal fishing and primary producers.

As noted on "FishingForaLiving," a website dedicated to commercial fishing in Key West, Catch Share programs have become the "single most effective tool for the elimination of small boat fishermen." Furthermore, it will "place a limit on every fisherman's income and freeze out young people from ever entering the fisheries,"[1] essentially taking commercial fishing out of the community's hands and putting an end to traditional fishing. For other brief examples of where catch shares have harmed coastal communities both here and abroad, see the attached one-pager: "FWW: Examples of failures with IFQs (catch share programs—Domestic and International."

In addition to the grave detriment privatized catch share programs may cause to coastal communities, it is important to note that catch share programs do not necessarily improve ecological conditions, as noted by a study by the Lenfest Ocean Program of Pew Charitable Trusts published in the journal *Proceedings of the National Academy of Sciences.* The study, which analyzed impacts of catch share programs in North America, concluded that while these programs may make fisheries more predictable, they do not necessarily lead to more robust fish populations. This study disproved the common argument in favor of catch shares programs, that they supposedly benefit conservation and fishery sustainability.[2]

When developing a catch shares program, there is a choice. Systems can be privatized to benefit only a few, or they can benefit the public interest through fair allocation, and a flexible "rental" system. Our goal is to make the public more broadly aware of that choice, and to steer policymakers toward the latter option, and we hope you will join us in this work.

The fish in the U.S. Exclusive Economic Zone (EEZ) ocean waters belong to all U.S. people equally and are part of the ocean commons: a living public trust asset to be passed from one generation to the next. We thank you for considering these comments, and the attached documents, and ask that you help protect these public resource for future generations by bringing oversight to the fragmented catch-shares implementation process that is occurring across the country, and steering plans in a "cap-rent-recycle" direction.

[NOTE: An article entitled "Cap-Rent-Recycle: Common Sense on Catch Shares" has been retained in the Committee's official files.]

[A statement submitted for the record by Troy Fussell, Morriston, Florida, follows:]

Troy Fussell,
Gulf of Mexico Reef Fish Fisherman
F/V Irma Lee
Morriston, FL
352–528–5667
tlfuss@netzero.com

Date: 04/26/2010

To: All Members of the Subcommittee on Insular Affairs, Oceans and Wildlife

Subject; Gulf of Mexico Grouper Tilefish IFQ (Catch Share) Program

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[1] Bade, Peter. "Individual Fishing Quata's—Background." March 18, 2010. Available at: http://fishingforaliving.com

[2] T, Essington. "Ecological indicators display reduced variation in North American catch share fisheries." *Proceedings of the National Academy of Sciences.* 2009.

Introduction

This letter is intended to inform the members of the subcommittee of the effects the Gulf of Mexico Grouper Tilefish IFQ program has had on my operation. I have been following the development of the program and kept communications with Gulf Council members, advisory panel members and personnel of NMFS St. Petersburg over the years.

In September of 2000 I bought the fishing vessel Irma Lee and permit together as a package. At that time I was new to the commercial reef fish fishery and intended to grow in experience to one day make it my full time occupation. That day came in late 2006 when my employer of many years went out of business. From that time until December of 2009 I enjoyed moderate success and earned income from grouper fishing to support my family. Now the IFQ program is underway I have the boat hauled and sitting idle. In the following paragraphs I will explain how and why I was forced to make this decision.

Nature of Grouper Fishing

When most people think of commercial fishing they think of big nets pulled along the bottom capturing anything and everything, or perhaps gillnets or traps. The shallow water grouper fishery is one of the most environmentally friendly fisheries in the U.S. Almost all swallow water grouper harvest is accomplished with hook and line, except for a small percentage of spearfishers. My fishing method of choice is simply a rod and reel (vertical line fishing). The gear is tended at all times and when a fish is hooked it is immediately brought to the surface. This method allows the fisher to quickly identify if it is a lawful species and size, if not it is immediately returned, with little or no harm.

Pertinent History

1990—First reef fish permits were issued
1992—Moratorium on issue of new permits
July 15, 2004—Red Grouper TAC dropped to 5.31MP
November 15, 2004—TAC of Red Grouper met
November 16, 2004—Announcement of October 15, 2004 as IFQ control date
March 3, 2005—10,000 lb trip limit set
October 10, 2005—TAC of Red Grouper met
January 1,2006—6,000 lb trip limits set
January 2007—*Magnuson-Stevens Reauthorization Act* Signed
February 7 2007—Grouper Traps removed permanently
January 2009—Grouper Tilefish Referendum Results Reveled
January 1, 2009—Commencement of Grouper Tilefish IFQ Program

Detailed Sequence of Events

As observed from the pertinent history list the TAC (total allowable catch) for red grouper was reduced to 5.31MP on July 15, 2004. For the first time in the fishery's history on November 15, 2004 the TAC was met and by rule the entire shallow water grouper commercial fishery must be halted for the remainder of the year. The following year the TAC was met October 10, 2005 the fishery again closed until the first of the year. January 1, 2006 6,000 lb trip limits were instated the TAC was never reached again. These two closure events set into motion the NMFS push for a catch share program.

In January 2007 the *Magnuson-Stevens Reauthorization* Act (MSA) was signed giving the Gulf Council and the Secretary of Commerce the authority to invoke a Limited Access Privileged Program (catch shares) if desired. The MSA contains very explicit guidelines and procedures detailing program initiation, initial allocation and cost recovery. These rules insure the small owner-operated vessels that currently depend on the fishery receive a fair and equitable initial allocation.

In December 2008 NMFS held a referendum to determine if qualified grouper fishers approved of the IFQ program. 81 percent were in favor.

Around October 5, 2009 I received a package from NMFS indicating the amount of my permit's initial allocation amount.

My Situation

During August 2008 the Gulf Council determined who was eligible to vote in the December referendum. They decided to use catch histories from the years 1999–2004 as the qualifying years and an 8000 lb landings average per year as an additional voting qualification. Of about 1000 permits with grouper landings only 300 were eligible to vote. Approximately 69% of fishermen who held valid Reef Fish permits as of December 2008 were denied an opportunity to vote. I was denied the opportunity to vote.

The following are quotes from the official referendum results bulletin.

"Of 301 ballots distributed, 273 (90 percent) were returned by eligible voters, 23 ballots received by eligible voters were not returned, and 5 ballots were not claimed by the addresses."

"Of 273 votes cast, a total of 220 votes (81 percent) were in favor and 50 (18 percent) were opposed. Three returned ballots were declared invalid."

In my opinion the high average annual landings threshold was set to produce a predictable result. Those with lower landings would be more incline to vote no because their initial allocation would be relatively low. The MSA 16 U.S.C. 1853a (c)(6)(D)(i) states, "For multi species permits in the Gulf of Mexico, only those participants who have substantially fished the species proposed to be included in the individual fishing quota program shall be eligible to vote in such a referendum."

The phrase "substantially fished" can have a very broad interpretation.

The Gulf Council used the same qualifying years 1999–2004 as the initial allocation formula. Using these selected years gave no consideration to those who are currently dependant on the fishery as the MSA demands. The council used catch histories from 11 to 6 years before the implementation of the program, and obviously did not include catch histories as close to the program start date as possible.

Below are excerpts from the MSA Reauthorization Act 2006.

MSA 16 U.C.S. 1853 (b)(6)(A–G).

(6) establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account—
  (A) present participation in the fishery;
  (B) historical fishing practices in, and dependence on, the fishery;
  (C) the economics of the fishery;
  (D) the capability of fishing vessels used in the fishery to engage in other fisheries;
  (E) the cultural and social framework relevant to the fishery and any affected fishing communities;
  (F) the fair and equitable distribution of access privileges in the fishery; and
  (G) any other relevant considerations;

MSA 16 U.C.S. 1853a (c)(5)(A–E)

(5) ALLOCATION.—In developing a limited access privilege program to harvest fish a Council or the Secretary shall—
  (A) establish procedures to ensure fair and equitable initial allocations, including consideration of—
    (i) current and historical harvests;
    (ii) employment in the harvesting and processing sectors;
    (iii) investments in, and dependence upon, the fishery; and
    (iv) the current and historical participation of fishing communities;

As the MSA proclaims, present, current **AND** historical participation/harvest must be considered when developing and allocating IFQ programs and shares. The Gulf Council used historical only.

Using historical only landings, as the initial allocation formula is the major factor that was most detrimental to my operation. After 2006 my landings substantially increased due to my full-time involvement. During the years after 2006 my average yearly landings were about 15,000 lbs. In October 2009 I was officially notified of my initial allocation for 2010 of about 3,000 lbs, only 20% of my most recent years landings.

The Gulf Council's and NMFS solution to this deficit is for me to lease or buy shares from someone. After talking with other shareholders some shares could be leased, but at prohibitive costs. The amount of shares needed to bring me back to viable levels are simply too costly. Currently the boat is hauled and sitting idle. I am presently working odd jobs to support my family and searching for permanent work.

Another consequence of the program will be a forced relinquishment of my Reef Fish Permit. This will come about due to the fact that less than 50% of my income will come from commercial fishing, pursuant to 50 C.F.R. 622.4(a)(2)(v). I simply do not have the resources to lease or buy shares.

One would instinctively consider other species to supplement or replace Grouper. However Grouper and **Red Snapper are the most viable Reef Fish species in my area. Lesser viable Reef Fish species are naturally not as abundant within my vessel's range as in other areas of the Gulf. As you are quit aware Grouper and Red Snapper are currently managed under the new IFQ programs with many of the lesser Reef Fish species to soon follow. A control date of December 2008 has been announced.

**My yearly allocation of Red Snapper issued in 2006 was/is 34lbs (thirty four pounds).

Solutions

I am not opposed to the concept of IFQs I am opposed to the way the Gulf Council and NMFS bent the guidelines of the MSA and harmed a lot of fishermen. Below are some suggestions on how to fix the current Gulf of Mexico Grouper Tilefish IFQ program.

1) Put the current IFQ program on hold.
2) Redefine "substantially fished".
3) Conduct a proper referendum to include more of the current participants.
4) If passed, base initial allocations on the most recent landings data.
5) Make shares sales only, No leasing.
6) Shares can only be owned by fishermen with Permits. (the current plan in 5 years will allow any U.S. citizen or legal alien to buy shares without a permit).
7) Abolish the 50% income rule.

Closing

I am not a fisheries management expert, but I am a small vessel owner operator that depended on the Grouper fishery. I was forced out with no viable alternatives, no exit compensation and not even a financial assistance opportunity (loan).

I hope from my experiences and comments the committee can use it to help alleviate some of these problems for existing and future fisheries programs.

Thank you for your attention on this matter.

Troy Fussell

[A statement submitted for the record by Jim Gilmore, At-sea Processors Association, follows:]

Statement submitted for the record by Jim Gilmore, At-sea Processors Association

The At-sea Processors Association (APA) submits this testimony for the hearing record for the Subcommittee on Insular Affairs, Oceans and Wildlife's second hearing on the use of catch shares as a fishery management option. APA member companies have experience with fish harvesting cooperatives—a type of catch share program—going back to the late 1990s. Hopefully, the Committee will find useful this reporting of our positive experience with fishing cooperatives in achieving conservation benefits, providing family-wage jobs, and promoting international competitiveness for our sector of the fishing industry. We also take this opportunity to share our thoughts on the promising draft catch shares policy issued by the administration in December 2009.

Background on APA

APA is a fishery trade association composed of five companies that—among other commercial fishing and fish processing interests—own and operate 19 U.S.-flag trawl catcher/processor vessels. All 19 vessels are eligible to participate in the nation's largest fishery, the Bering Sea/Aleutian Islands pollock fishery. Ten of the vessels are also licensed to participate in the catcher/processor sector of the west coast Pacific whiting fishery.

APA members have worked together in both the Alaska pollock and Pacific whiting fisheries to implement fish harvesting cooperatives, which are catch shares-style programs. In 1997, members of APA created the Pacific Whiting Conservation Cooperative (PWCC). Two years later, following passage of the American Fisheries Act, APA members formed the Pollock Conservation Cooperative (PCC). As described below, both cooperatives have delivered significant conservation benefits and fostered economic stability in the industry.

Benefits of Catch Shares-Style Fish Harvesting Cooperatives

Following passage of the Magnuson-Stevens Act in 1976, the Alaska pollock and Pacific whiting fisheries were among those west coast/Alaska fisheries that transitioned from being harvested by foreign fishermen to being harvested and processed by U.S. fishermen and processors. U.S. fishery managers have done an excellent job over the past 30-plus years conducting stock assessments and setting science-based annual catch limits for the Alaska pollock and Pacific whiting fisheries, among other groundfish fisheries in the region. The "Americanization" of these

fisheries created thousands of new jobs for fishermen and fish processing workers. By the early 1990s, however, the race among vessels to catch the available quota resulted in substantial overcapitalization of the industry. Regulations limiting licenses were not implemented until the overcapitalization problem existed, and limiting new entrants did not bar existing participants from continuing to invest in equipment designed to fish and process faster.

APA members recognized the Hobson's choice: A fishing company could either join with most, if not all, of the other participants in borrowing more to purchase equipment to fish and process faster just to maintain its current share of the catch. Or a fishing company could stand pat but fall behind others in the race for fish. APA members' innovative solution was to advocate for limits on new entrants into already overcapitalized fisheries. Most importantly, APA members then agreed to form fish harvesting cooperatives among the eligible participants in which those participants agreed by private contract to divide the harvest quota based generally on each company's historical percentage of landings.

With individual harvesting allocations in place, less efficient qualified vessels are generally not operated. The remaining vessels conduct fishing and processing operations in a manner that optimizes performance, helping the industry to reduce costs. The catcher/processor sector is now producing about 50% more fish products per pound of fish harvested than the fleet was able to achieve under the race for fish format. In short, fish harvesting cooperatives have been effective in helping companies reduce operating costs while increasing the value of fish harvests. With crewmember wages often linked to the value of fish harvests, the benefits extend beyond company owners to all the men and women working in the harvesting and processing operations.

The fish harvesting cooperatives are also delivering measurable conservation benefits. The Alaska pollock and Pacific whiting fisheries are notable for their low incidental catch of non-target species with only about 1% of the harvest consisting of non-target species. Notwithstanding such "clean" fishing, cooperative members have initiated voluntary incidental catch avoidance programs for each fishery to further improve conservation performance. Among other initiatives, cooperative members share catch information collected by federal fishery observers assigned to the catcher/processor fleet. Observer reports are transmitted electronically to NOAA Fisheries' observer program offices. Vessel owners retain a private company, SeaState, to collate and analyze observer data and to provide the fleet with real-time information that identifies any incidental catch "hotspots." Through terms of an enforceable private contract, fishing areas closures for cooperative members are instituted. This incidental catch avoidance program is an adaptive management approach that is difficult, if not impossible, to replicate in the federal fishery management regulatory process.

APA members' positive catch shares experience is hardly unique. In the Alaska region alone, all sectors of the Alaska pollock fishery have formed fish harvesting cooperatives, flexible Individual Transferable Quota (ITQ) catch share programs have been designed for the halibut/sablefish and crab fisheries, and additional fish harvesting cooperatives are being established in the multi-species non-pollock groundfish fisheries. Including west coast Pacific whiting, these fisheries account for about half of all seafood landed annually in the U.S. The success of these programs demonstrates that regional decision making that tailors catch shares to the specific elements of the fishery being managed can bring measurable benefits to fishing communities and the environment.

NOAA's Fishery Management Responsibilities and Catch Shares

Many of the benefits of catch shares realized in the Alaska pollock and Pacific whiting fisheries, as well as other Alaska fisheries, have been replicated in catch shares programs around the U.S. and abroad. Our fish harvesting cooperative experience, for example, is consistent with the scientific analyses referenced in NOAA's catch shares policy report showing "that fisheries managed with catch shares have demonstrated improved biological and economic performance relative to prior management using traditional tools." Given that track record of success, it is reasonable for NOAA to develop a policy that, among other things, encourages regional fishery management councils to consider catch shares at least as a management option to be analyzed by councils when addressing extant problems in U.S. fisheries. The NOAA policy to encourage consideration of catch shares programs is wholly consistent with the agency's commitment and responsibility to enhance fishery sustainability, including fostering economic and social stability for commercial fishing interests.

Among other benefits, catch shares programs, where appropriately used, should effectively complement new annual catch limit requirements mandated in the 2006

Magnuson-Stevens Act amendments. We particularly agree with NOAA's finding that catch shares can complement annual catch limits (ACLs) by helping achieve additional economic and social objectives necessary to support sustainable fisheries. As our testimony noted earlier, science-based catch limits alone do not ensure a healthy fishing industry. In the case of the Alaska pollock fishery, fishery managers applied science-based ACLs for that fishery from the time the U.S. extended its jurisdiction to 200 miles in the late 1970s. The ACLs helped maintain sustainable fish stocks, however, annual catch quotas did nothing to prevent a race to catch the available quota, resulting in chronic harvesting and processing overcapitalization. Overcapitalization resulted in numerous bankruptcies in the industry in the 1990s. Economic and social stability eluded the industry until the advent of fish harvesting cooperatives in the late 1990s that ended the pernicious race for fish.

While the 2006 Magnuson-Stevens Act amendments requiring ACLs and accountability measures represent an important step forward for further strengthening U.S. fishery management, it is appropriate to encourage the regional fishery management councils to consider catch shares programs contemporaneous with implementation of ACL and accountability measures. The catch shares policy properly reserves this responsibility for the regional councils and recognizes that successful implementation of catch shares programs depends on early stakeholder participation in the scoping process, goal development, and flexibility. Most importantly, one size does not fit all when it comes to developing catch shares, and the agency's proposal to commit resources to facilitate the sharing of experiences among different fisheries recognizes that critical point.

NOAA's Proposed Support for Councils and Stakeholders is Important

Further to the point above, it is helpful that NOAA has enumerated the programmatic actions necessary to assist councils and stakeholders, including providing technical and administrative support, providing expertise, informing and educating stakeholders to increase understanding about the advantages and disadvantages of catch shares, and coordinating data collection to monitor the performance of catch shares programs. NOAA has thoughtfully articulated more than two dozen specific activities to accomplish the four proposed programmatic goals. NOAA's emphasis on assisting industry sectors to make the business case for instituting catch shares programs and providing tools for fishing communities to use in assisting with the design of new catch share programs is appropriate.

Conclusion

In sum, rationalizing fisheries through catch share-style programs promotes science-based approaches to management, enhances conservation, and strengthens the economic vitality of fishing communities. APA is pleased that the Subcommittee is focusing on this critically important issue area and overseeing implementation of NOAA's catch shares policy.

Thank you, for considering our views.

For additional information, please contact Jim Gilmore, Director of Public Affairs of the At-sea Processors Association, 1225 I Street, NW, Suite 600, Washington, D.C. 20005. E-mail: jgilmore@atsea.org. Ph. 206.669.6396. More detailed information about the Alaska pollock and Pacific whiting cooperatives can be found at www.atsea.org and www.pacificwhiting.org.

[A statement submitted for the record by Dick Grachek, Stonington, Connecticut, and Point Judith, Rhode Island, follows:]

Statement of Dick Grachek, Stonington, CT and Point Judith, RI

The following is not an account of fisheries scientific theory or of management philosophy, or of legal chicanery, or one of debunking the Eco-NGO marketing talking point lies and misinformation. This is intended solely as a clear personal statement of fact concerning one small fishing business, comprised of one vessel, with one Multi-Species groundfish license. This is a local New England small business that employs 5 fishermen and supports 5 families with eight children. My wife and I have our life savings and retirement invested in it, as well.

Our 73 foot groundfishing vessel was acquired in July of 2005. This vessel was an upgrade from a smaller vessel which, although well found and stout, was too small to safely fish offshore in the North Atlantic, full time, year round.

The new vessel's hull and basic machinery were sound but neglected and needed a complete rehabilitation; so from July of 2005 through October of 2006 the vessel was laid up and totally refitted, deck, superstructure, electrical and machinery, re-

built or replaced. These dates are significant because the only fishing trips that occurred under my ownership during the NOAA decreed "qualification period" for the allocation of catch shares, i.e. the fishing years between 1996-2006, were the initial "shakedown" trips mostly to ascertain what upgrades were still needed on the vessel.

In other words, the fish poundage allocation this vessel was assigned by NOAA was based solely on the catch history of the previous owner. I purchased the vessel when the "currency" for fishing allocation was in the form of Days-At-Sea; this license had the maximum days allowed at the time. The rules have changed recently to basing allocation on the total accumulated poundage of catch per license, per species, during the 1996-2006 fishing years period, and then measuring this poundage against the total poundage per species landed by all boats in that period.

The previous owner of my boat and license fished three boats concurrently, so my vessel was fished only a portion of the available time, and not always for groundfish, but also for Squid, Whiting, Scup, and Fluke; species that are not counted as groundfish and would not appear in my current catch share allocation for groundfish.

The result is that my vessel was allocated a very small percentage of the significant groundfish species, approximately 5% of the amount of fish that we have landed per year over the last 4 years and which are necessary for this operation to remain viable. In all likelihood our survival will be a matter of months under the current catch scheme.

The New England Multi-Species stocks by The New England Fisheries Management Council's own figures are 80% rebuilt, 15 of the 19 species are completely rebuilt and overfishing is not occurring. The other 4 stocks are on the rise and are on schedule to achieve healthy numbers. Only 25% of the amount of fish declared by government scientists, available to be safely harvested, was landed last year due to the inflexible regulations. Overfishing is not occurring in New England; the fish stocks are healthy. This is an abundant and healthy source of food. After 20years of sacrifice and downsizing, the fish are back in force; and a major restructuring is completely unnecessary and irreversibly destructive.

The majority of local fishing operations are in similar straits to mine, some in worse predicaments, and some have already disappeared. The implementation of the Amendment 16 catch share sector scheme must be stopped before the few remaining boats like mine are gone; and we lose entirely this vital industry.

Dick Grachek, A Report for the AAFC
American Association of Fishermen and Their Communities
Mystic, CT
March 2010

CATCH SHARES, CONSOLIDATION and THE TIPPING POINT

Proponents claim Catch Shares will stop overfishing, restore the stocks, create high paying quality jobs, and make the fishermen profitable and safe. A closer look at Catch Share programs in place for decades shows no data to support these claims.

Further consolidation or reduction of the commercial fishing fleet, a known consequence of Catch Shares and stated by NOAA during their push for implementation, will take the independently owned at sea fishing vessel operations and the dockside support businesses beyond their financial "tipping point". This will cause the small, family owned, independent fishing businesses and their communities to collapse.

CATCH SHARES

WHAT IS A CATCH SHARE?

The New England Fishery Management Council is in the process of installing the Amendment 16 management scheme of Catch Shares or Individual Fishing Quotas (IFQ's), or Individual Transferrable Quotas (ITQ's). The various terms and acronyms for the program can all be defined by the concept of owned percentages of the Total Allowable Catch (TAC) by individuals, or groups, or corporations, or organizations, or cooperatives. A "Sector" is a cooperative of Catch Share holders.

This Catch Share management approach is actually an idea of economics, claiming production efficiency, and not one of fishery conservation. It is the private ownership of the shares of a natural resource. Catch shares are an extension of the faulty deregulated free market theories of economists such as Milton Friedman,

which in this case have evolved into the concept of Free Market Environmentalism which is the approach of "ownership equals responsibility; or render a commodity profitable enough and somehow the owners and the mechanism of market capitalization will automatically stabilize and sustain that resource or industry. For a natural resource such as a fishery this thinking is based on the following principles:

- Private property rights encourage stewardship of resources
- Market incentives spur individuals to improve environmental quality
- Government controls and subsidies often degrade the environment
- Polluters should be liable for the harm they cause to others

This information can be found at www.perc.org , Property and Environment Research Center, a "think tank" located in Bozeman, Montana, which proclaims itself as having "...championed the successful approach [ITQ's] to eliminating overfishing (see www.ifqsforfisheries.org)."

The Claim: Fish populations worldwide are imperiled from overfishing. The Remedy: Individual Transferrable Fishing Quotas will stop overfishing by making fishing operations more "efficient", therefore making fishermen more profitable, and therefore they will become more "responsible stewards", and therefore sustain the health of the resource.

A BRIEF HISTORY

Individual Fishing Quotas have been in existence since 1976 in Iceland, since 1986 in New Zealand, and more recently in the US, Pacific Whiting and North Pacific Pollack since the late nineties, and Bering Sea Crab in 2005. New Zealand and Iceland are most often cited as being in the forefront of developing catch shares or ITQ's for their fishery; they've certainly been at it the longest and their programs will be looked at more extensively in the next section.

The New England Groundfishery had a brush with catch shares in 1995. The Staff of the New England Fisheries Management Council (NEFMC) concluded at that time that although these ITQ programs did improve the economic efficiency of some fisheries, there was little evidence that they improved the biological condition of the stocks. They specified that the Catch Share or ITQ scheme is not practical for the diverse multi-species nature of the New England Groundfishery. They also noted that groundfish stocks at that time were in trouble world wide, including those managed with ITQ's and fishing mortality targets. Also they found that the management costs for this type of program were enough to drive certain governments (e.g., The Netherlands) to move away from Catch Shares or ITQ's.

In New Zealand fisheries failures occurred in three species under this scheme, and Canadian east coast Cod and their other groundfish populations collapsed after ten years of IFQ management.

This information was enough so that in 1995 the National Marine Fisheries Service dropped promoting Catch Shares; but then resumed the push for them in 2005 which culminates today with the impending implementation of Amendment 16 Catch Shares/Sectors program. The question is: Why? Can any evidence for this renewed commitment by NOAA to Catch Shares be found in the stock assessments and TAC's of fisheries that have operated for decades under this type of regime?

A CLOSER LOOK

Do Catch Shares Rebuild the Stocks?

A Review of Stock Assessments: The fisheries of Iceland, New Zealand, and U.S., which have operated in a Catch Share or ITQ program for at least 5 years.

Fisheries often cited as a successful examples of the ITQ management scheme are Iceland, New Zealand, and in the US, Northwest Pacific Whiting, Alaskan Pollock, Alaskan Crab fishery, Alaskan halibut and groundfish.

Certainty of successful stock rebuilding is professed when proponents are advocating Catch Shares and citing existing ITQ programs as examples; this paper will concern itself with a closer review of the TAC's of those countries' stocks to illustrate the effect (or lack of) that the ITQ's actually have on the fish stocks. It will also look at the effects of ITQ's on coastal fishing ports and communities.

This is not to claim that ITQ's are necessarily a detriment to the stocks, although they could be; it is to claim that Catch Shares as a panacea for the fish and the fishermen is a marketing slogan more than a statement that is based on fact. It is therefore stated that ITQ's in themselves are not the answer to the problems experienced by the fisheries and to claim so is misleading.

Iceland

(I am enclosing these Stats for Iceland because some are quite extreme and I didn't want the impact to be lost in consolidation.)

Timeline of ITQ Development:

Introduced Individual Vessel Quotas for Herring in 1976; they were made transferrable in 1979.

Introduced Individual Vessel Quotas for Capelin in 1980; they were made transferrable in 1986.

Introduced Individual Transferrable Quotas for larger vessels for Demersal (Groundfish) 1984.

ITQ system for all fisheries, (small vessels exempt) 1991.

ITQ for small vessels as well 2004.

Landings of Icelandic Stocks for 2008/2009 and potential TAC's for 2009/2010 for 31 species:

This information can be found at The Icelandic Ministry of Fisheries website: www.fisheries.is/ — Go to "Status of Marine Stocks" from left side menu.

Species	2008/2009Landings	2009/2010 Recommended TAC & % of + or –
Atlantic Cod	147,000t	160,000t + 9%
Haddock	103,000t	57,000t - 44%
Saithe (Pollock)	70,000t	35,000t - 50%
Golden Redfish	45,000t	30,000t - 33%
Icelandic Slope Redfish	25,000t	10,000t - 60%
Shallow Pelagic Redfish	2,000t	closed fishery
Deep Pelagic Redfish	7,000t	landings down no limit set until future survey
Greenland Halibut	23,000t	5,000t -78%
Halibut	564t	no targeted fishery only by-catch
Plaice	6,700t	5,000t -25%
Dab	800t	500t -37%
Long Rough Dab	280t	250t by-catch only -10%
Witch (Gray Sole)	1,400t	1,600t but declining recruitment +14%
Lemon Sole	2,630t	1,800t precautionary TAC -32%
Megrim	197t	closed fishery
Wolffish	14,700t	10,000t -31% and closed spawning area
Blue Ling	3,800t	closure and closed spawning areas
Ling	9,300t	6,000t -35%
Tusk	8,200t	5,000t -39%
Anglerfish	3,000t	2,500t -16%
Lumpfish	5,700t	Limited Data no TAC
Summer Herring	152,000t	Stock infection no TAC
Herring	217,000t	238,000t +10%
Capelin	no TAC	Low level last 4 seasons no TAC
Blue Whiting	159,000t	-53%-- int'l spawn stock down since 2003
Mackerel	112,000t	+59% for international stock no TAC agreement
Smelt	8,900	8,000t -10%
Nephrops (Prawn)	2,070t	2,200t +6%
Northern Shrimp Inshore	Closed in recent years	Remain closed
N. Shrimp Offshore	1,450t	down from 65,000t in 1995-1997 for 2010 7,000t
Iceland Scallop	closed	remain closed due to natural mortality, protozoan infestation

In Iceland and in some other areas as well, Cod are holding their own; the exploitation rate of 40% in 2000 is now at 22%. Fishing mortality has declined by 40% yet productivity is considered impaired because the seven most recent year classes have been below average with poor recruitment and low weight at age, most likely due to lower capelin abundance.

Most all other species for the 2009/10 fishing year have had the TAC significantly reduced, some drastically.

An interesting side note illustrating a perspective on the fishing industry which is not hostile but supportive is a press release from Einar K. Guofinnsson, Icelandic Minister of Fisheries and Agriculture, on January 19, 2009, announcing an increase of 30,000 tons in the cod TAC, and by way of qualifying the increase wrote:

> *"This decision has been taken not least in view of the economic difficulties facing the Icelandic nation, but also in consideration of positive indications as to cod stock size resulting from trawl service [surveys] of demersal species this past autumn. Those assessments indicated that the overall cod index was considerably higher than in preceding years.*

The cod TAC for the next fishing year is also expected to be at least 160,000 tonnes.

Although rebuilding the cod reference and spawning stock biomass will be slower than planned, this decision is in line with declared objectives for sustainable fishing of cod and other commercial stocks in Icelandic waters." (Underline emphasis is mine)

So the stock assessments look pretty good, and factoring in economic realities, they're going to slow down the rebuilding process, confident that the stocks are in the process of achieving sustainability. That is common sense governance that U.S. fisheries have been deprived of for decades. Also worthy of note: it is Fisheries and Agriculture; not Fisheries and International Commerce and Big Business, which is what the placement of the U.S. fisheries amounts to in the Department of Commerce.

Cod seem to be on the rebound in all the fisheries reviewed; but they are alone; almost all TAC's for the Icelandic fisheries reviewed have been cut. It would seem that there are other factors governing the health of the stocks besides the allotment of Individual fishing quotas. If the ITQ's were solely responsible for any successes, than what about the rest of the fish under ITQ's, why haven't they rebounded? What is abundantly clear is that ITQ's promoted as a panacea for all that ails the fisheries is either a grossly ignorant oversimplification of a very complex set of circumstances which effect the health of the fish; or such statements have a predisposition because of some external agenda that has little or nothing to do with the actual health of the fish or the fishery.

This is not to make the argument that ITQ's are causing the decline in the fish population, but simply put ITQ's are certainly not necessarily helping the stocks as they are purported to do.

New Zealand

Fisheries statistical information was found at The New Zealand Ministry of Fisheries website: www.fish.govt.nz "New Update for Status of Stocks", September 2009

The New Zealand fisheries have been under ITQ's or QMS's (Quota Management Systems as they are known in New Zealand), since 1986. The results are mixed concerning the sustainability and health of the fish. According to the Ministry of Fisheries' statistics out of the 117 major commercially harvested stocks evaluated that are in the QMS, 79 are near or above target levels while 38 are not. The report goes on to disclose that of the 117 the number of stocks depleted or overfished is 18, not depleted, 77; while 8 stocks are collapsed and closed to fishing, orange roughy and scallops among them, and 19 stocks are overfished.

The Orange Roughy Fisheries of New Zealand and Australia (a story by themselves) were on ITQ's since 1986 and 1989 respectively. By some accounts the stock is now at 10% of what it was estimated to be before a market developed for the fish, whether or not that figure is accurate is another question; but it's safe to say that the ITQ scheme did little to sustain the fishery. The brilliant ITQ strategists failed to take into account the fact that the fish for which they were advocating ITQ's have a lifespan of 120-150yrs and spawn at 30 years of age. As a species, they're just a bit sluggish on the rebound. Clearly there's more to management than marketing shares of the TAC; it also helps if something about the characteristics of the fish is known. Each fishery is unique, and some are more complex than others, such as the New England Multispecies Fishery where many regulated species inhabit the same area.

They don't seem to greatly emphasize the ITQ system part of their management program; although it has been used for almost all their fisheries for the last 26

years. The New Zealand system is seen as much as an "input controls" system (i.e., restricting how, where, and when fishing is carried out, days at sea, and closed areas, etc) as it is an "output system" (or limiting the amount of fish taken, TACs and ITQs). They use both; and do not make any claims of either being a panacea. In a comprehensive study titled, "The historical development of fisheries in New Zealand with respect to sustainable development principles", http://www.ejsd.org/Archives, volume 1,issue 2, Sustaining the Seas, Dr. Mark T. Gibbs, the Stream Leader of Aquatic Resources Monitoring and Modeling at the Commonwealth Scientific and Industrial Research Organization, concludes that although he thinks that they are probably a good idea, after 26 years of ITQs in New Zealand he writes with a sense of honesty and reality in the conclusion, in fact, the very last paragraph of the paper on p31:

> *"It therefore appears that ITQ regimes as presently practiced are neither a necessary nor a sufficient condition to ensure sustainable development. However, at least in the case of New Zealand, they have been a major milestone on the pathway that ultimately hopes to achieve sustainable fisheries."*

This, after 26 years of ITQ's, an honest appraisal can only offer the ITQ pathway as a "hope" to ultimately achieve sustainability.

U.S. Fisheries: Pacific Whiting, Alaskan Pollack, Crab, and Halibut

The Pacific Whiting Fishery, in ITQ's since 1997, is essentially owned by four companies running ten vessels; their TAC for 2009 has been cut by 50% by the Pacific Fishery Management Council, alleging declining stocks.

The North Pacific Pollack Fishery has been in ITQ's since 1999. A huge fishery in terms of landings, it accounts for 35% of all U.S. landings and is worth billions. The bottom line is that the fishery is in the hands of a powerful few and the TAC was reduced by 29% for 2009 for alleged stock decline.

Since 2005 the Bering Sea King and Opilio crab fishery has been in ITQ's, or "Crab Ratz" as the rationalization of the fishery is affectionately known to the fishermen involved. The TAC's for these fisheries have not increased in recent years.

In Southeast Alaska the Red and Blue King Crab fishery did not open and the biomass is at its lowest level in sixteen years. Halibut fishermen in this area have seen their TAC decline by more than half in the last five years.

It is not argued that ITQ's or catch shares are causing the decline in TAC for these species; or that a declining TAC is necessarily an accurate indication of declining fish populations. It is argued, however that there is no evidence in these assessments to indicate that Catch Shares or ITQ's have any demonstrable beneficial effect on the fish stocks. The Catch Shares or ITQ scheme is just that, an economic scheme to produce a new tradable commodity and a new path for economic expansion—wealth for a few investors with good timing (or connections).

Any management program that uses Catch Shares or ITQ's still needs to use a Total Allowable Catch or TAC in order to manage the stock populations. The TAC's were cited above only to illustrate that the claim for ITQ's or Catch Shares as having a profound beneficial effect on the health of fish populations and therefore a benefit to the fishing community cannot be statistically supported; and the opposite seems true, most TAC's show a decline over the years. Fish populations have increased and declined over the years with apparent disregard for the management regime in place. What effects fishing mortality is TAC and trip and daily catch limits not who owns what percentage of the TAC.

The report, "Updated Status of New Zealand's fish stocks", September 2009, begins with the statement:

> *"In New Zealand, setting and adjusting Total Allowable Catches (TACs) and/or Total Allowable Commercial Catch (TACCs) to limit annual catches is the primary mechanism for managing our fisheries. This is generally thought to be the most effective management method worldwide."*

Do Catch Shares rebuild the stocks? NO. Additionally it is only common sense to understand that if the resource is owned by absentee investors ("sealords") there will be far less good stewardship involved than with a publically owned resource, procured by local fishermen who are accountable to the local consuming community.

Catch Shares are nothing but more faulty Milton Friedman free market economics. Consider what's already been privatized and corporatized and market capitalized: Schools, Prisons, Energy, War, farm food; and look at the corporate track record in those areas: Enron, Exxon Valdez, Halliburton, Blackwater, the U.S. has the largest prisoner population on the planet, Judges taking kick backs for populating juvenile prisons, e-coli and poison peanut butter, etc. After fish become tradable commodities, why would we think the fisheries resource would be handled with any more integrity and enlightenment by the corporate "Funds" investors that

are licking their chops as we speak? (See Festa courts Milken, Gloucester Daily Times, June 30 '09)

What will be the effect of being privatized, corporatized, commoditized, and derivitized on the ocean and its inhabitants (both finny and human)? Has free market, profit oriented, corporate stewardship improved the health of anything it has touched? Consider the current state of the world economy after the deregulated free market "profit is all that matters, it will float all boats" economic policies of the last decade were so vigorously and consistently applied to our financial institutions.

CONSOLIDATION

WHAT IS CONSOLIDATION?

Does Consolidation through Catch Shares Increase Profitability and Safety for the Fishermen?

Consolidation is fleet reduction; and is a known consequence of Catch Shares. In fact fleet reduction is a stated goal for the fisheries of the ENGO's and NOAA. Consolidation is their answer to their own sound bite, "...too many boats, chasing too few fish".

Consolidation results from commoditizing a resource into individual quotas or Catch Shares because the allocation process is so flawed it can for instance, cut out single license holders from receiving a viable allocation. In addition the mechanics of the allocation such as the "qualification period" on which the percentage of the overall catch is based, might entail a period when the catch history of a license was in the hands of a previous owner who could have had a fleet of boats and fished each one at various times, but might not have accumulated a decent total catch history for any one of them. Accurate government agency record keeping in this process is crucial; NOAA/NMFS has admitted its allocation data is flawed.

Of course if the overall TAC allotted by NOAA is not reasonable, then all but the largest allocation holders will go down the drain.

WHY CONSOLIDATION? WHAT IS THE RATIONALE?

The claim: Fish populations worldwide are imperiled from overfishing. The remedy: Individual Transferrable Fishing Quotas or Catch Shares will stop overfishing by making the fisheries more efficient.

Efficiency is a mainstay in the argument for consolidation through Catch Shares. Economists and the free market environmentalists talk about more efficient fisheries. What exactly do they mean by this? They mean cheaper production costs and more profit i.e., less people, less jobs, fewer boats, and more production,—usually fewer but larger factory vessels. In the case of aquaculture it entails the centralized raising and feeding or industrialized mass production of fish on fish farms.

The World Bank's Global Program for Fisheries (PROFISH) has an ongoing study of the efficiency of the world's fisheries. It is called "The Rent Drain Project". "Rent" is a term in economics which essentially means the profit or net economic benefit from a property or resource with the connotation of not being involved in the actual "hands on" production process.

The study also has the title of "The Sunken Billions. The Economic Justification for Fisheries Reform" in which the specific countries' fisheries are studied and advised as to their "inefficiency", usually citing excess fleet capacity as the culprit and recommending reductions of from 40% to 80% in the number of fishing vessels. This would increase consolidation, therefore efficiency, to the level where governments would not see their "rent" or profits from the resource being drained by small privately owned, community based "inefficient" fishing boats.

In other words, by extracting rent from our local fisheries through consolidation, the allocations would pay dividends to individuals or funds that own, but don't enter into the hands on production.

This is Wall Street investor mentality: exacting profit through buying and selling shares of production or catch without doing the work involved; without touching a fish. Catch Shares and this entire system have nothing to do with the health of the fish or the fishery. Wall Street is hungry for a new investment tool, a new derivative package.

This system leads to overcapitalization in the fishery, not as money flows to the vessels and fishermen, but as it rattles around among the investors, and constantly increases the price of buying the right to catch a pound of fish, until eventually the undercapitalized fisherman is priced out of his own business.

Catch Shares essentially render a fishing license worthless. They ultimately will allow outside or non-license holders to own and collect "rent" from the fish poundage landed; and the license then becomes nothing more than the opportunity to do the back breaking work while someone else collects the rent or the profit.

In the days-at-sea effort control system, fishermen can buy and sell each other's right to fish for groundfish species, but it all stays with the license holders. Catch Shares will open up the actual ownership of the pounds of fish to outside investors i.e., "outside" of the licensed fishermen.

These Catch Share or ITQ concepts are based on academic theories of economics and business, written by the professors at universities such as University of Rhode Island, University of British Columbia, and University of Iceland. Many of these university departments are supported by grants from environmental organizations which are hostile to fishing, and doing the bidding of the funding parent corporations, which have various agendas all aimed at increasing their profit margins. Many of these economic theorists know little or nothing about sustaining the resource or the welfare of the fishing communities dependent on that resource.

Some of these academics have the title of bio-economist, or resource economist, but it's clear from the sometimes devastating effects of these theories out in the world, that the theoreticians don't know much about the fish and even less about the fishing industry.

In British Columbia fisheries leasing fees or the "rent" for catch shares (the privilege to catch the fish) can take up to 70 to 80 percent of the value of the fish that come out of the fish hold.

For a cogent statement of an Icelandic economist's "interest" in the fisheries, see Ragnar Arnason, Prof. Dept of Economics at the University of Iceland, "Iceland's ITQ system creates new wealth" http://www.ejsd.org/public/journal__article/9 .

SOME EXAMPLES OF CONSOLIDATION

In New Zealand today Eight (8) Fishing companies own 80% of production and the value of the full fishery quota is $3.5bn. There are 2200 individuals and companies that own quota, so if eight companies own 80% and even if each company holds several licenses, then at least 2000 individuals and companies own the remaining 20%. That's some distribution of fish; and also makes one wonder about who will have the political clout and the price setting ability.

In the North Pacific Pollack Fishery cooperatives were formed by large catcher processor vessels. They were exempted from the antitrust laws through the American Fisheries Act of 1998 (AFA). The offshore fish are caught by a handful of catcher-processor vessels (factory ships) and 3 motherships that handle product from 20 additional catcher vessels. The inshore fishery consists of 5 processing plants and 80 catcher vessels delivering to the plants. It is not important to go into great detail regarding the many and complicated administrative difficulties and controversies of this type of arrangement, but just to name a few: the anti trust or monopolistic, and hence price setting nature of the factory ship cooperatives create inequalities between them and the independently owned inshore fishing vessels and processing plants; then comes government micro (mis)management, as usual, through regulations in the AFA, with inequities and market destroying consequences. The common pool fishermen's livelihoods are controlled through price manipulation by the large factory ship cooperatives and the relatively few processing plants. The bottom line is that the fishery is in the hands of a powerful few, with market destroying price setting powers.

The Pacific Whiting Fishery, in ITQ's since 1997, is essentially run by four companies fishing ten vessels.

The Bering Sea King and Opilio Crab fishery rationalization has shut down the fishing operations of 200 boats (there are 68 remaining) and has cost an estimated 1200 fishing jobs. Kodiak is said by the locals to be "dying".

In Canada's halibut fishery it is estimated that since the installment of ITQ's, for every dollar that the boat earns 70 cents goes to the cost of leasing the quota for those fish caught. Essentially this triples the overhead cost to the vessel owner, the captain, and crew. Where is the increase in job quality, and profitably, and safety in that? The fleet was reduced by 50%.

ITQ's do however have a profound effect on the fishing communities that have operated under such a regime. Vessel, captain and crew shares have decreased on average by 50%. When profit margins are decreased by that much, there is less incentive and funding for upkeep and maintaining vessel safety equipment.

Our fishing regulation approach seems dominated by science, mostly economists and biologists; but there are people living amongst all these theories. Catch Shares or ITQ's do have an effect on the fishing community, on people, and the effect is negative. Catch Shares have nothing to do with the common good, or public purpose, security of the food supply, safety of those at sea, or the health of the resource.

Do Catch Shares increase profitability and safety for the fishermen? NO.

COUNTERPOINT: THREE STUDIES

Although there is a paucity of attention paid to the socio-impact of the Catch Share scheme, below are a few studies that provide some balance to the largely unsupported talking points of the proponents. The entire issue of Catch Shares or ITQ's should still be in the debate phase.

Ecotrust Canada outlines eight potential trouble spots in a paper aimed at helping Obama's U.S. Task Force on Catch Shares avoid difficulties they've already experienced in their ITQ experiment,—our administrators don't seem to be listening.

The British Columbia Fishery ITQ management regimen has been held up as a model of success by Catch Share proponents and has been in effect since the early 1990's. Here is a report by a Canadian Environmental NGO, Ecotrust Canada; they apparently have not been adulterated by corporate grants. They seem not to have lost their integrity as they report here on the realities that BC fishermen have faced over the years. Realities which run counter to the marketing pitch of Catch Share proponents' media campaigns. In the words of the report, "A cautionary tale about ITQ fisheries", http://www.ecotrust.ca/fisheries/cautionarytale front page, 2nd paragraph:

> *"Debate about ITQ's is often polarized and fuelled more by ideology than by reality. Proponents hail ITQ's as a solution for both conservation and the financial ills plaguing the fishing industry. However, too many people—including some environmentalists—accept exaggerated claims about ITQ's without clearly knowing the facts. Downplayed is the critical role that sound science and good governance—that is, inclusive, transparent, co-management between government, and industry and stakeholders—plays in ensuring the sustainability of fisheries."*

The report discloses 8 lessons *"...learned from the practical experiences of designing, implementing and managing ITQ's in BC."*

It is worth listing the 8 lessons here since they are in direct contrast to the latest talking points blog released by a principal proponent of the catch share scheme, the Environmental Defense Fund, www.edf.org titled "NOAA's New National Catch Share Program: An investment that makes (dollars and) cents" which contains the statement, ***"Fishermen are increasingly embracing catch shares because they boost profitability, wages, and safety."***

This shorter version of the 8 lessons can be found under "BACKROUNDER" in the Ecotrust paper http://www.ecotrust.ca/fisheries/study-cautions they are as follows:

With refreshing facts and sobering analysis, Ecotrust Canada's Cautionary Tale describes eight lessons to be learned from BC's experience with ITQ fisheries since the 1990s.

- Lesson 1: ITQs promote quota leasing, not ownership. In 1993, only 19 percent of the halibut quota was leased compared to 100 percent in 2008. Lucrative leasing has caused quota purchase prices to soar, making ownership prohibitively expensive.
- Lesson 2: ITQs give fishermen a false sense of security. By allocating individual fishermen a defined share of the catch, ITQs can reduce a bit of uncertainty, but they by no means eliminate it and, in some cases, can exacerbate it. For example, quota lease fees negotiated pre-season can expose fishermen to increased financial risk if fish prices drop, fuel prices rise or foreign currency exchange rates change.
- Lesson 3: ITQs facilitate resource privatization. Fishing licenses and quotas are not property de jure, that is "in law." Rather they are property de facto, that is "in practice." ITQs create new forms of de facto property that can be divided, capitalized and transferred with even greater ease.
- Lesson 4: ITQs increase capitalization in fisheries. While ITQ systems can rationalize fleets, reducing capitalization in vessels and equipment, they can also lead to speculative buying and leasing which increases the capitalization in quotas themselves. Today, fishing quotas and licenses, or intangible assets, are worth $1.8 billion or five times the value of all the vessels and equipment in BC's commercial fisheries. That means total capitalization in tangible and intangible assets has actually increased.
- Lesson 5: Quota leasing hurts the financial performance of working fishermen. Quota lease fees are as high as 75 percent of catch landed value in many BC fisheries, draining revenues from working fishermen. In BC's trawl fishery, as the amount of quota leased rises to 100 percent on a vessel crew shares decline by about 50 percent.

- Lesson 6: ITQs don't enhance science and monitoring. While ITQs fisheries usually require stricter monitoring because of high-grading problems, there is nothing about the nature of ITQ fisheries that inherently improves monitoring or scientific data collection.
- Lesson 7: ITQs have safety problems of their own. The high cost of buying and leasing ITQs bleeds income away from working fishermen, causing boats to go out with inexperienced or insufficient crewmen, which can lead to accidents. Anecdotal reports and safety statistics suggest that the groundfish trawl fishery has become less safe since ITQs were introduced in 1997.
- Lesson 8: Sound science and co-management underpin fisheries sustainability. ITQs don't guarantee sound science and good governance. They represent only one alternative, among many input and output controls, to responsibly manage fisheries

The question is: have these eight points been adequately considered and addressed for the impending Catch Share system here in New England; no less, allotted the time and energy required in order to create their preventative remedies for our fishery, "and will they ever be seriously dealt with?

Dr. Julia Olson (July 1, 2009), "Social Impact Assessment Literature Review: Leasing and Permit Stacking", New England Fisheries Science Center, Woods Hole, MA writes,

> *"the primary social impacts that have been documented in empirical cases involving consolidation (explained in greater detail below) range from employment loss, decreased income, decreased quality of life, changing relations of production, structural disadvantages to smaller vessels and firms, dependency and debt patronage, concentration of capital and market power, inequitable gains, regulatory stickiness reduced stewardship, decreased community stability, loss of cultural values, and so on."* (Underlines and parentheses are Olson's)

Dr. Olson concludes that same introductory paragraph with,

> *"Thus the question of capacity reduction is ultimately not simply an issue of economic efficiency, but a question of what values to promote and what the future of the fishery and its fishing communities should look like."*

This broader perspective from Julia Olson's paper, (i.e., what about the people?) is found again in a paper that contains a great deal of common sense and knowledge of fishing communities by Seth Macinko and William Whitmore, Dept of Marine Affairs, Uni. of Rhode Island, Revised June 2009, A New England Dilemma: Thinking Sectors Through, Final Report to Massachusetts Division of Marine Fisheries.

Sectors are the cooperatives that fishermen are required to join thus pooling their individual Catch Shares. Sectors are supposed to be self-governing and self-policing. This is an aspect that many feel to be so administratively costly and unwieldy, that it's a setup for failure.

Macinko and Whitmore's relevant bullet points in the "Executive Summary" are as follows:

> *"The current push for sectors obscures the fundamental policy decision at stake: whether to pursue catch shares via a model that emphasizes "privatization" of public resources or a model consistent with public ownership of fishery resources. The privatization model carries with it known inequities while the public ownership model could offer equity for all interests involved. Sectors can occur via either route but there has been no public recognition or discussion of this choice."*
>
> *"The current approach to sectors appears to be driven by an extreme faith in privatization, deregulation, and devolution of authority. Mere faith that private ownership promotes stewardship will not contribute towards solving the monitoring and enforcement challenges on which conservation truly depends, and could spell disaster for sectors."*
>
> *"While arguments can be made either way, on balance the available evidence suggests that sectors are likely to accelerate the consolidation that is already happening in the groundfish fleet. In addition to affecting sheer vessel numbers, consolidation will likely have a geographic component, shrinking the number of ports actively involved in the fishery."*
>
> *"In view of the Council's [New England Fisheries Management Council] expressed concern for adverse impacts on communities, as well as the statutory mandate to reduce such impacts (National Standard 8) [of the Magnuson Stevens Act], the relationship between sectors and community benefits warrants closer attention. Community benefits cannot be just assumed to happen via a trickle-down process."*

It is clear from these three studies alone that the headlong rush into Catch Shares, ITQ's, IFQ's or whatever they are called is a disastrous vector for the fishing industry, the fishing communities, and the fish. They need to be in a moratorium until these issues are addressed at length.

TIPPING POINT

Even during the best of times, because of unpredictable market forces, the illusive prey, and extremely high operating costs, fishing businesses do not have a very fat reserve account backing them up. They don't have a great cash flow margin of error. Their financial "burn time" is not impressive. Any irritant to these shallow financial margins, if sustained for any length of time, can be disabling and before too long will cause the business to shut down. This is true not only for the vessels that go to sea; but just as importantly, it is also true for the many shoreside support businesses that make a fishing operation possible. These dockside businesses have a point of "no returns". Currently, the majority of the boats and shoreside businesses are on the edge of going under financially due to the "Perfect Storm" of the slow choking of landings revenues through overzealous regulation, and the even higher than normal overhead costs due to escalation in fuel price and insurance premiums, and low fish prices because of the poor economy and cheap imports.

Fishing vessel operations have a mutually dependent relationship with their dockside support business counterparts; they need each other in order to exist. Vessels depend on ice suppliers; look to wholesalers to pack and sell their catch; and call on net makers, electricians, welders, and mechanics for immediate repairs which will enable them to return to sea without too much costly down time. Without these support services, the thin financial margins of vessel operations threaten the continued solvency of even the best boats. Similarly the support businesses are not publically owned corporations with unlimited resources. If the boats are not frequent enough or don't pay their bills, these shore side businesses, the foundation of the system, will be jeopardized and if they fold, the entire local fishing industry will collapse.

There is a solvency tipping point where the number of vessels coming in for repairs, ice, fuel, groceries, net refurbishing, or with fish to pack out, i.e., the overall volume of transactions, is simply not yielding enough cash flow for these businesses to keep the doors open. It is the point where overhead overwhelms income and the business operates in the red, and will soon close.

It is one thing for academic economists to theorize about the economic "efficiency" resulting from fleet consolidation; but the reality off-campus is that the 50% percent reduction of an already reduced and starved fleet will not be enough to keep the support businesses open; they will disappear. Then without the necessary dockside support, the fishing vessels will soon follow and easily slip down the same sinkhole as the dockside facilities. We will then see a complete 100% consolidation of the small boat fleet. In its place will be vertically integrated companies of self sufficient factory trawler-processors, contracted directly to Wal-Mart and McDonald's, providing a cheap, uniform, and low quality product. See the Northwest Pacific Whiting Fishery for an example of the effects of ITQ consolidation.

Consolidation or fleet reduction is a known consequence of the Catch Share management scheme. But when business "tipping points" are factored in, a "domino effect" comes into play. Further fleet reduction becomes a very real and immediate threat to the continued existence of the major fishing ports in New England, and throughout the entire industry, jeopardizing entire communities and thousands of livelihoods.

Unrealistic fishing regulations and vessel consolidation have brought this industry, both at sea and at dockside, right up to the "tipping point". Any further loss in the volume of working vessels due to consolidation from a Catch Share management regime will render the majority of the support businesses and consequently the entire fleet no longer viable. It will be the end of the independent family owned small fishing operation and the end of a dependable and safe national food supply.

JOBS:

Do Catch Shares Create High Paying Quality Jobs?

In Alaska fishing provides more direct jobs than the oil, gas, mining, agriculture, forestry, and tourism, industries combined. Some 54,000 at its height

If Alaska employs 54,000 people in its fisheries, add in fishermen from the Southeastern States, the Gulf of Mexico, the Mid Atlantic States, and the New England Fisheries, plus the commercial aspect of the recreational fisheries then multiply that by 6.6 which is the University of Maine's multiplier for dependent land jobs for each fisherman at sea, and the number of fishing jobs is huge. There is a great deal at

stake here for the economy in general and job loss is a direct result of Catch Shares and consolidation.

According to a paper by Dr. Julia Olson (July 1, 2009), "Social Impact Assessment Literature Review: Leasing and Permit Stacking", New England Fisheries Science Center, Woods Hole, MA

> *"Employment in the Mid-Atlantic surf clam fishery dropped by nearly 80% between 1990 and 1999 (from 155 to 34 employed crew members) as the industry consolidated in the wake of ITQ's..."*

It is estimated that approximately 1200 jobs have been lost in the Bering Sea Crab fishery.

Crew quality decreases with decreased crew pay and safety is compromised in extremely dangerous fisheries.

Fishermen often turn to underpaid assembly line work on factory processor trawlers, or turn into sharecroppers even if they are able to hold on to their own boats, paying out up to 70% of their landings proceeds to the holder of the fish allocation. Crew income declines because of leasing overhead expense; and many fishermen are forced to leave their native coastal communities because of lack of employment opportunity.

Catch Shares kill jobs.

CONCLUSION

CATCH SHARES: NOT A GOOD IDEA!

Catch Shares do not help the fish.

Catch Shares do not help the fishermen and the fishing communities.

Catch shares were not put to the referendum vote as statutorily mandated by the MSA.

Catch Share Sectors were not "voluntarily" joined by the majority of the fishermen. The common pool was not a viable option.

The NOAA/NMFS allocation data is admittedly flawed and inaccurate.

Catch Shares have been "ramrodded" without due deliberation or adequate planning.

Finally catch Shares or ITQ's are just a tool like any of the others that have been tried; only if this one goes wrong, the fishery is gone forever. Fleet consolidation through ITQ's and the consequent collapse of shore side support facilities, possible factory ship cartels, (legal under the American Fisheries Act 1998), and the transfer of "fishing rights" into the wrong hands, are most likely irreversible consequences of this plan, and may be the end of the independent fisherman and their communities.

> *"Fisheries that begin with limitations on transferability can quickly lobby to remove them given market pressures as in Canada, Iceland, and Tasmania" (Olson)*

Catch Shares don't boost small fishing business profitability, increase safety, help the fish stocks, or the communities. They destroy the independent small boat fishing operation in several ways, but essentially by putting the price of shares of a public resource beyond the financial reach of the small boat fisherman. Due to extracting "rent" and open market trading, the costs associated with leasing or buying quota become prohibitive, especially for a financially strapped industry. The small independent fisherman is left out.

European Union Fisheries Commissioner Joe Borg suggested scrapping their Catch Share Quota system for effort controls (Days-at-sea, etc.) after 25 years of experimenting with them.

A BETTER IDEA:

> *"...the critical role that sound science and good governance—that is, inclusive, transparent co-management between government, and industry and stakeholders—plays in ensuring the sustainability of fisheries." Ecotrust Canada (intro. to "A Cautionary Tale")*

The fisheries can be successfully managed. With integrity, common sense, and clarity of purpose it can be done. Everyone involved knows that successful effective management is absolutely necessary for survival. The problems managing the complicated North East Multi-Species Fishery have more to do with the huge and detached autonomous bureaucracy we've built and its unwieldiness, confusion, and ineptitude, than with uncooperative fish or rogue fishermen.

Fishing cannot be managed from sound-bites or marketing slogans created by environmental organizations with a prejudice and an agenda. Good scientific observation, stock assessments and governance does not result if there is a predisposition

or a given blind allegiance to the postulate that "the fish are endangered due to illegal and immoral overfishing".

Fishing can also not be managed from an academic economist's or biologist's point of view only. Fishing is a multi-faceted issue and requires a multi-discipline approach, including sociologists, social-psychologists, social-anthropologists, and social-historians, and especially must include the fishermen whose lives will be directly and sometimes drastically affected by the outcome of the regulation decisions. The words men and women, the humans, have to be put back and coupled with the term "fishers" (so favored by the detached anti-fishing theorists).

These issues and problems are not insurmountable; but there needs to be honest communication about the purpose and long term goals for the fisheries. There can't be hidden corporate agendas or personal ambition driven politics if the management endeavor is going to succeed at preserving the resource and the fishing dependent communities.

WHAT CAN BE DONE RIGHT NOW?

Stay for now with the present system of effort controls. The days-at-sea, governed by cooperative research, is actually working and the infrastructure is already established. THE FISH ARE BACK!

Return to Framework 42 days-at-sea. Devote funding to cooperative transparent research and analysis in order to review and revise the assessments and current TAC's and closures of Winter Flounder, Yellowtail Flounder, Pollack and Fluke allocations, Sea Bass, Red Snapper, dogfish, etc.

Employ scientists and analysts who know fish and who know the fishing industry and pair them with accomplished fishermen and their vessels. Employ accomplished fishermen who know how to set a net and who know whether it's tending bottom or not. For a start hire people like, Dr. Brian Rothschild, Kevin Stokesbury, Ph.D., Nils Stolpe, Ph.D., and Capt. Jim Rhule on the F/V Darana R., for an intelligent and accurate appraisal of the health of the stocks.

Devote some funding to developing a management model based on a hierarchical concept of ecosystems, using a point system to direct catch effort away from vulnerable stocks as outlined in Apollonio and Dykstra, "An Enormous, Immensely Complicated Intervention": Groundfish, The New England fishery Management Council, And The World Fisheries Crisis.

Allocate funding to develop even more selective gear innovations as a way to deal with the problems associated with the complex New England multi-species ground fishery (i.e., regulating to the weakest species etc.). Include fishermen and professional net designers in every phase of the process. Phil Rhule and Jon Knight accomplished building such gear which won awards, the "Rhule Trawl" has been sanctioned by NMFS. Jon Knight can be commissioned to continue with more such research and development.

A fleet of many privately owned small boats have conservation systems and limits built in. They are restricted by weather and funding, market prices, fuel and mechanical repair costs; so they naturally spend down (non-fishing) time. Due to narrow financial margins and weather safety issues, they can only fish for the stocks that are plentiful and within reach of their ports. It is not financially viable for them to fish on depleted stocks. This coupled with intelligent management will secure the health of the resource and the fishery.

A Fleet of many small "inefficient" boats will sustain the fish, preserve jobs, provide a vital healthy source of fresh food daily, and keep the traditional coastal fishing communities thriving.

[An email submitted for the record by Brian Lewis, Clearwater, Florida, follows:]

Catch shares and oversight hearings

From: Brian Lewis (blewis131@hotmail.com)

Sent: Mon 5/03/10 7:54 AM

To: Katherine Romans (katherine.romans@mail.house.gov); Bill Young (bill.young@mail.house.gov); Troy Fuss (tlfuss@netzero.com)

May 1st, 2010

Dear all,

My name is Brian Lewis I own the fishing vessel Sandy-Em 2, which my son in law operates here in Clearwater fl.

We have been supplying fresh grouper caught in the Gulf of Mexico for the last 5 years. Our grouper are caught one at a time on rod and reel which gives the fish a better chance of survival if it is an undersized fish or of a species that we can't keep. Our gear type is non destructive compared to other types of gear efforts and yet we are the ones being forced out, something is drastically wrong here.

The way our economy is how can you allow small scale fishermen to be forced out of business, some of these guys have been doing this all of their lives and despite this we are depriving them of making a honest and decent living.

On January 1st a catch share program known as amendment 29 to the fishery management plan became effective for the grouper- tile fish fishery here in the Gulf of Mexico.

We did not get any catch shares because we were not fishing during the qualifying years [1999–2004] for a catch history

A sham referendum for the grouper ifq was held but only 30 percent of the 1100 permit holders were allowed to vote on it based upon their catch history during these qualifying years.

Due to these criteria I and many others was not allowed to vote on the referendum as well as not awarded any catch shares of grouper or tile fish.

The way that the program works has cost us an additional 1500.00 per trip than with our previous program.

The people who possess the shares can now sit on the couch and not work while the guy like us has to do all the work and go broke in the process.

A catch share program was not necessary, We had a 6000 lb trip limit for grouper that was working just fine there was no derby fishing occurring since 5 yrs ago . Since the trip limit had been 6000 LBs per trip the season remained open all year. This was fair and equitable to all fishermen but with catch share program it is not.

The frame work used in developing catch shares is not the same for all fisheries and does not work in a multi species fishery, for example we throw back on the average 300 to 500 pounds of red snapper per trip directly because of the catch share program in which we can't keep because there is no catch shares available so how can we keep letting this happen. I seriously doubt that they all survive despite our best efforts and the gulf council wants catch shares for all reef fish.

The only reason it was approved is because over 700 permit holders were not allowed to vote in which it allowed only the people that the program favored no wonder it passed. Imagine if we could eliminate 70 percent of voters in November it would be real easy for whoever you wanted to win.

The voting process was definitely not fair and equitable amongst all fishermen, in fact food and water watch conducted a survey and 90 percent of the respondents would have voted no on the referendum for the Ifq program for amendment 29 had they been allowed to vote on it.

I represent many other fishermen who are in similar situations including fishing families, communities, vessel builders and owners who are feeling the negative effects of this catch share program.

THE CATCH SHARE PROGRAMS that are being implemented around the United States are not being used to conserve the fisheries it is being used to put the small business people out of business and with this it consolidates the shares so that only a select few own the shares.

FACT: CATCH SHARE PROGRAMS ALLOW PRIVATE INVESTORS TO BUY UP THE QUOTA SO THAT IT CANT BE FISHED FOR, I ASK HOW CAN WE BE GOOD STEWARDS TO OUR FISHERY IF OTHER THAN FISHERMEN POSSESS THE SHARES, QUITE FRANKLY WE CANT.

FACT: CATCH SHARE PROGRAMS ALLOW CONSOLIDATION AND PRIVITIZATION OF THE PUBLICS RESOURCE AND STRANGLES NEW ENTRY.

FACT: CATCH SHARE PROGRAMS DO NOT FOLLOW THE MAGNUSSON STEVENS CONSERVATION ACTS INTENT ACCORDING TO NATIONAL STANDARDS [2], (4), [8]

Conservation and management measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

As you can see these catch share programs are in direct violation of Magnuson Stevens Act, National Standard number 4 intent was not followed because the shares were not fairly distributed and there are individuals who have more shares

than they need who aren't even fishing they are sitting back and leasing the shares and or selling at exorbitant prices that does not allow new entry or even keep most small businesses afloat, we take all the risk.

We feel that the persons holding the shares should either be out using them to fish or lose them so that others who need them will be able to survive.

If catch shares are here to stay then we need financial assistance to stay in business like a low interest loan for each fishery to help with the transition of these plans, right now there isn't any for fisheries that are undergoing overfishing or are overfished. Amendment 29 needs to have congressional over sight based on the following national standards of the magnuson Stevens act page 58. s**16 U.S.C. 1851** MSA § 301 58

TITLE III—NATIONAL FISHERY MANAGEMENT PROGRAM

SEC. 301. NATIONAL STANDARDS FOR FISHERY 16 U.S.C. 1851 CONSERVATION AND MANAGEMENT

(a) IN GENERAL.—Any fishery management plan prepared, and any regulation promulgated to implement any such plan, pursuant to this title shall be consistent with the Following national standards for fishery conservation and management: 98–623

(1) Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing Industry.

(2) Conservation and management measures shall be based upon the best scientific information available.

(3) To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.

(4) Conservation and management measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges. 104–297

(5) Conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose.

(6) Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.

(7) Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication. 104–297, 109–479

(8) Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities by utilizing economic and social data that meet the requirements of paragraph (2), in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.

In closing I want to be involved with the oversight committee on catch shares, I would like to be able to be allowed to borrow money to stay afloat .

We need a low interest loan, asap so that we can buy some shares to[1] be profitable and [2] Be good stewards in our fishery or some kind of buyback program for the fallout on these catch share programs .

NOAA, National Marine Fisheries service and the Gulf Council won't listen to us because I'm the little guy; we need someone to hear our cries for help.

I want some of these violations of the Magnusson Stevens acts National Standards be reviewed as well as the voting process that was held.

I need an invite to any of the oversight hearings that occurring in our country.

What I would do differently if I was going to set up an individual quota program again is I would set up a loan program for displaced skippers, crew, and new entrants. I would be more inclusive in the initial allocation and I would study other quota systems prior to implementing one.

Thank you for your consideration

Sincerely

Brian Lewis
102 south nimbus ave
Clw, fl 33765727–423–6950 or email me at blewis131@hotmail.com or blewis4@tampabay.rr.com

[A letter submitted for the record by Hon. Henry Mack, Mayor, City of King Cove, Alaska, follows:]

CITY OF KING COVE
P.O. BOX 37
KING COVE, AK 99612
(907) 497-2340 PHONE
(907) 497-2504 FAX

RE: Fisheries Catch Shares—letter to Congress

To: 111th U.S. House Committee on Natural Resources
Subcommittee on Insular Affairs, Oceans and Wildlife
187 Ford House Office Building (Oceans and Wildlife)
Tel: (202) 226-0200 Fax: (202) 225-1542

Honorable Chairwoman Madeleine Z. Bordallo and Subcommittee members;

We would like to comment on the catch share proposals now before your committee.

Based on the experience of the King Cove community, we believe the implementation of a Catch Shares system, which privatizes publicly owned fisheries resources, is destructive to local fishermen and coastal communities. We also believe the record shows that implementing Catch Shares does not necessarily protect fisheries resources, and that there are other existing management tools to accomplish this which are less destructive to communities and fishermen.

King Cove has experienced two Catch Shares programs over the past twenty years. Halibut and sablefish (black cod) catch shares were implemented in the 1990s under a program called "Individual Fishing Quotas." The IFQ program eliminated 13,000 jobs in Alaska, jobs which have never come back. The original plan mandated that the owner be on board the vessel and that quota share could not be leased. This plan was not adopted, with the result that the majority of the initial quota share recipients have leveraged more quota share using their initial free quota as collateral.

The second catch share program which has affected King Cove is the Bering Sea Crab Rationalization program, which was instituted in 2005. Before crab rationalization ten King Cove vessels fished crab in the Bering Sea, primarily with King Cove skippers and deckhands. Crab rationalization winnowed this fleet down to zero King Cove vessels fishing crab in the Bering Sea. With an average of five and half crewmen per vessel those ten boats represent 50 crewmen jobs removed from the community.

Also, access to the fisheries, the right to fish on a crab vessel, is now leased to crewmen by the crab owners at rates between 50% and 80% of the ex-vessel value of the crab. This is money which is taken off the amount from which crewmen are paid their percentages of the catch. This money, skimmed off the top, is estimated to be between $8 and $10 million over the past five years. The loss of that money, which used to be spent in King Cove and other coastal communities but is now removed from the communities by absentee owners, has had serious and harmful economic and social consequences for coastal Alaskan communities.

These negative effects have occurred despite the assurances by former Chairman Dave Benton of the NPFMC that the concerns and interests of coastal communities would be addressed before catch shares programs would be implemented. In a letter to Congress August 5,2002, Chairman Benton stated:

"Rationalization will improve economic conditions substantially, for all sectors of the industry. Community concerns and the need to provide for economic protections for hired crew will be addressed"

In June of 2006, one year after the implementation of catch shares in the Bering Sea crab fisheries, the North Pacific Fisheries Management Council, the body which administers fisheries regulations in Federal waters of Alaska, came to King Cove to listen to the views of the public on the issue. The overwhelming majority who testified spoke against fisheries privatization, Many spoke of the loss of income and jobs. Others testified that crewmen's rights had been ignored in the process of awarding ownership of the public crab resource to only one small segment of the industry—the vessel owners. And some testified that by awarding processor shares and mandating that vessels deliver crab to specific processors, the crab rationalization program had caused ex-vessel prices to fall.

With this negative experience of the privatization of fisheries in Alaska, the King Cove City Council and Aleutians East Borough view with alarm the imminent implementation of catch shares in the New England fisheries on May 1,2010. We share the concerns of the Governor of Massachusetts, the Massachusetts Congressional

delegation, and the mayors of mayors of Gloucester and New Bedford about the effects on coastal communities of fisheries privatization.

We urge Congress and NOAA to carefully assess the affect of catch shares on coastal communities and on the men and women who fish from those communities before moving forward with new privatization programs. We also urge Congress and NOAA to examine the role of private investors and speculators in the fisheries privatization process. Tn order to provide time for these assessments to be made of the effects of catch shares on communities and fishermen, we ask that Congress and NOAA establish a 2-3 year nationwide moratorium on the implementation of catch shares programs.

We ask Congress to amend the Crab Rationalization program so that the economic benefits are 'fairly and equitably' distributed—in line with economic sharing in accordance with their historical participation—to all segments of the fishery, especially crewmen and new vessel entrants.

Sincerely,

Mayor Henry Mack

[A letter submitted for the record by The Honorable Stanley Mack, Mayor, Aleutians East Borough, follows:]

April 22, 2010

RE: Fisheries Catch Shares—letter to Congress
111th U.S. House Committee on Natural Resources
Subcommittee on Insular Affairs, Oceans and Wildlife
187 Ford House Office Building (Oceans and Wildlife)
Tel: (202) 226-0200 Fax: (202) 225-1542

Honorable Chairwoman Madeleine Z. Bordallo and Subcommittee members:

We would like to comment on the catch share proposals now before your committee.

Based on the experience of Aleutians East Borough, we believe the implementation of a Catch Shares system, which privatizes publicly owned fisheries resources, is destructive to local fishermen and coastal communities. We also believe the record shows that implementing Catch Shares does not necessarily protect fisheries resources, and that there are other existing management tools to accomplish this which are less destructive to communities and fishermen.

The Aleutians East Borough has experienced two Catch Shares programs over the past twenty years. Halibut and sablefish (black cod) catch shares were implemented in the 1990s under a program called "Individual Fishing Quotas." The IFQ program eliminated 13,000 jobs in Alaska, jobs which have never come back. The original plan mandated that the owner be on board the vessel and that quota share could not be leased. This plan was not adopted, with the result that the majority of the initial quota share recipients have leveraged more quota share using their initial free quota as collateral.

The second catch share program which has affected the Aleutians East Borough communities is the Bering Sea Crab Rationalization program, which was instituted in 2005. Before crab rationalization there were local vessels that fished crab in the Bering Sea primarily with local skippers and deckhands. Crab rationalization has diminished this local fleet and has dramatically declined the number of crab fishing jobs in our communities. Rationalization has cut into sales of some local businesses that sell to crab boats and crab fishermen such as pot storage, welding, marine supplies, taxis, and provisions. Also, harbor moorage fees collected by some Aleutians East Borough communities have declined. Residents have also indicated that the most important effects might be associated with a restriction on their option to participate in the crab fisheries.

Also, access to the fisheries, the right to fish on a crab vessel, is now leased to crewmen by the crab owners at rates between 50% and 80% of the ex-vessel value of the crab. This is money which is taken off the amount from which crewmen are paid their percentages of the catch. This money, skimmed off the top, is estimated to be between $8 and $10 million over the past five years. The loss of that money, which used to be spent in Aleutians East Borough coastal communities but is now removed from the communities by absentee owners, has had serious and harmful economic and social consequences for coastal Alaskan communities.

These negative effects have occurred despite the assurances by former Chairman Dave Benton of the NPFMC that the concerns and interests of coastal communities

would be addressed before catch shares programs would be implemented. In a letter to Congress August 5, 2002, Chairman Benton stated:

> "Rationalization will improve economic conditions substantially, for all sectors of the industry. Community concerns and the need to provide for economic protections for hired crew will be addressed."

In June of 2006, one year after the implementation of catch shares in the Bering Sea crab fisheries, the North Pacific Fisheries Management Council went to King Cove, the Aleutians East Borough community most impacted by the decision, to listen to the views of the public on the issue. The overwhelming majority who testified spoke against fisheries privatization. Many spoke of the loss of income and jobs. Others testified that crewmen's rights had been ignored in the process of awarding ownership of the public crab resource to only one small segment of the industry—the vessel owners. Some testified that by awarding processor shares and mandating that vessels deliver crab to specific processors, the crab rationalization program had caused ex-vessel prices to fall.

Because of this negative experience of the privatization of fisheries in Alaska, the Aleutians East Borough view with alarm the imminent implementation of catch shares in the New England fisheries on May 1, 2010. We share the concerns of the Governor of Massachusetts, the Massachusetts Congressional delegation, and the mayors of Gloucester and New Bedford about the effects on coastal communities of fisheries privatization.

We urge Congress and NOAA to carefully assess the affect of catch shares on coastal communities and on the men and women who fish from those communities before moving forward with new privatization programs. We also urge Congress and NOAA to examine the role of private investors and speculators in the fisheries privatization process. In order to provide time for these assessments to be made of the effects of catch shares on communities and fishermen, we ask that Congress and NOAA establish a 2-3 year nationwide moratorium on the implementation of catch shares programs.

We ask Congress to amend the Crab Rationalization program so that the economic benefits are "fairly and equitably" distributed—in line with economic sharing in accordance with their historical participation—to all segments of the fishery, especially crewmen and new vessel entrants.

Sincerely,

Stanley Mack
Mayor
Aleutians East Borough

[A letter submitted for the record by A. Pierre Marchand, President, Jessie's Ilwaco Fish Co., Inc., follows:]

April 20, 2010

Rep. Madeleine Bordallo
U S House of Representatives
Washington, D C 20515

Dear Representative Bordallo,

These are my comments on the catch-share program. First, I am unalterably opposed to the program. There are several reasons:

1. As proposed, the programs will freeze the younger generation out of the fish business as it makes it too expensive to get in. Because they will not be entering the fishery, eventually the fishery will cease to exist.

2. This is a fundamental change in the way the U S does business. No longer will a person be able to enter into a business, work hard, save his money and get ahead. It will grant the ownership of a public resource to individuals with exclusive rights to that resource.

3. The system, as proposed, will not work. The cost of management will become too high. It could make some fisheries uneconomical to do and not even the government will be able to pay their share of the management costs of these types of programs.

4. It will not do what you say it's designed to do. We will see rapid consolidation of the fleet and of the processing sectors. There will be no new investments in boats or plants. Small companies like mine will probably be driven out of business as well as the small towns and ports that depend upon our businesses for support. Coastal infrastructure (docks, ice plants, unloading facilities, marine stores) will all begin to rapidly disappear.

5. This idea was tried on ground fish in Western Canada and is not working. Boats have disappeared, plants have disappeared, jobs have disappeared and the industry is in the state of losing its viability.

6. This whole process is taking money away from basic fisheries research and that money is being spent for the catch-share program. We have seen this happen in the archival tagging systems program which for 25 years has been a joint operation between NOAA and the American Fishermen's Research Foundation. We were informed last week by the NOAA people that there would be no money available for the foreseeable future. This will end the best industry/government research program on Albacore tuna that has ever been done. This is wrong! I can see much more of this happening in all industry/government research projects.

7. In the final analysis this is not fisheries management but social engineering at its worst.

For all these reasons and many more, the whole catch-share programs should never be allowed to proceed.

If you have any questions, please feel free to contact me at 360-642-3773 or pierrem@ilwacofish.com.

Sincerely,

A. Pierre Marchand, President
Jessie's Ilwaco Fish Co., Inc.

[A letter submitted for the record by Brian Mose, Nanoose Bay, British Columbia, Canada, follows:]

April 20, 2010

Subcommittee on Fisheries, Wildlife and Oceans
187 Ford House Office Building
(202) 226-0200

Dear Chairwoman Bordallo, Ranking member Brown and members of the subcommittee:

I write today in support of your efforts to help fishermen on the U.S. West Coast make the transition to sustainable fisheries using fully monitored catch share management. The commitment to a National Catch Shares Program supports a shift in fisheries policy that in my opinion will accrue benefits for conservation, fishermen, coastal communities, the oceans and the nation.

I know first-hand that conventional fisheries management is a no-win situation. I have been a multi-species trawl fisherman in British Columbia for more than 30 years. I have experienced open access olympic fishing, through to limited entry licensing and the setting Total Allowable Catch quotas (TAC's) for nearly all species. When landed catches began exceeding TAC's the Department of Fisheries and Oceans (DFO) started setting trip limits and limiting the number of trips. Over the same period fishery managers and industry representatives were applying dozens of restrictive rules in an attempt to maintain an annual fishery by limiting the expansion of fishing effort. As a result we sold into a vicious circle of ratcheting down the number of trips and trip limits for individual species and areas. This was a futile attempt to manage continuity of supply to market while failing to meet the conservation requirements to stay within assigned TAC's.

We had serious problems. Discarding and misreporting were rampant as fishermen raced to catch the fish before the limits were ratcheted down further. Safety was compromised, markets glutted, quality and value were constantly eroded. Furthermore fishery managers and science had no way to know true mortality by species and stock from the fishery.

In September of 1995 the fishery was closed for the balance of the year, the first time in our history. The fishery reopened a few months later with an observer on every vessel. DFO then engaged in a highly controversial discussion around catch shares in the multi species trawl fishery. DFO offered the stakeholders Individual Transferable Quota (ITQ) as the management tool and presented a process where the stakeholders could develop the social and economic objectives for the fishery. DFO's first objective was conservation and it was clear the fishery would be fully monitored and all catch would be accurately accounted for within the assigned TAC for each species and area. After an extensive process a comprehensive catch share management plan was implemented and continues to be improved upon consistent with stated objectives and new challenges.

In 1995 I was opposed to both full monitoring and catch shares and was one of the many fishermen who lobbied to stop the process and failed. The first year was

very difficult but by the third year my colleagues and I became advocates for a fully monitored ITQ program.

Catch shares are only one of many management tools, and needs to be combined with other tools such as catch monitoring, to achieve maximum benefits. The appropriate management tools to use are largely based on your objectives. I believe a fully monitored catch share program has made it more possible for us to achieve our objectives.

I must humbly admit, that if it were not for the strong leadership of DFO this fishery would look very different today and likely be limited by overfished species, poor data, low values, failing infrastructure and negligible benefits for all involved.

I urge you to continue your leadership in supporting fishermen and fish by supporting the development and implementation of a fully monitored trawl catch share program for the U.S. West Coast.

Thank you for your attention to this important matter.

Sincerely,

Brian Mose
3516 Goodrich Road
Nanoose Bay, British Columbia, Canada V9P 9K8

[A statement submitted for the record by Bernard Norvell, Sr., F/V Donna J, et al., follows:]

Statement submitted for the record by Bernard Norvell, Sr., F/V Donna J; Michelle Tarantino-Norvell; Vince Doyle, F/V Verna Jean 3; Tom and Shelley Estes, F/V Tara Dawn; Brian Jourdain, F/V Blue Pacific; Richard Kelley, F/V Miss Hailee, F/V Miss Kelley, F/V Miss Kelley II; and Randall Schlect, F/V Northern Light, Fort Bragg, California

Madam Chairwoman and members of the Subcommittee:

Thank you for the opportunity to submit written testimony concerning "A Community Perspective on Catch Shares." We are a group of long-time vessel owners operating out of Fort Bragg, California. Between us, we own eight trawl vessels that have fished for groundfish between Moss Landing to Cape Mendocino for over 25 years. Our families have been fishermen for many years and more than one generation, and we fully support conservation measures that lead to sustainable fisheries so that the next generation will also be able to earn a living fishing.

We understand the theory behind catch shares and have heard the argument that these types of programs will assist in rebuilding depleted or overfished fish stocks. However, our experience with the development of the proposed catch share program for the Pacific groundfish fishery (Amendment 20 to the West Coast Groundfish Fishery Management Plan) has shown us that catch share programs are not a "one size fits all" solution to fishery management problems and that wholesale adoption of such programs across the nation has the very real possibility of making fishery management problems worse, not better.

First, we cannot have a thoughtful dialogue about catch shares unless there is a shared recognition that catch share programs are ultimately about the allocation of the resource—they are not the means of ending overfishing. Instead, scientifically-based annual catch limits that are consistently and fairly enforced are the key to rebuilding fisheries. When catch shares are advertised primarily as conservation measures, economic outcomes and the potential for devastating social and community impacts often get pushed aside or minimized. This is the case with Amendment 20. Bad economic and social policy should not be blessed under the guise of conservation.

Our experience with Amendment 20 demonstrates that catch share programs must be designed very carefully if they are to avoid having negative impacts such as consolidation of quota shares from individual fishermen to corporations or entities that will not actually fish, and the destruction of small traditional fishing communities such as Fort Bragg. Catch shares should only be used when the economic impacts of implementing a catch share program in a particular fishery have been fully evaluated in the design of the program and the potentially devastating impacts on fishermen have been mitigated before the program is implemented. We are finding out first hand that this is easier said than done, and that lengthy deliberations—over five years in the case of Amendment 20—do not necessarily mean that a program has been evaluated fully or insightfully, with an eye toward practical implications for small communities.

NOAA states in its Draft Policy that catch shares are not always the "best management option for every fishery or sector." For this reason, NOAA states that it intends to "encourage the careful consideration of catch shares as a possible choice to best meet the conservation, social, and economic goals of fishery management." As we have followed the development of Amendment 20 by the Pacific Fishery Management Council, we are convinced that it is just such an example of an inappropriate use of catch shares. Catch shares are not appropriate to solve the problems in our shoreside groundfish fishery because the Council has been unable to design a program that will allow small shoreside vessels to continue to fish, and it does not have either the will or the funding to mitigate this result. Amendment 20 proves that a flawed catch share program is not better than no catch share program at all.

Our experience leads us to be very concerned that NOAA's enthusiasm for catch shares may lead it to implement programs in fisheries where the economics of the program are not sustainable—and without performing adequate economic analyses of the impact of such programs. For example, the Pacific Council has not provided transparent or sensible cost estimates for Amendment 20, which will apparently be around $6.5 million in implementation, $8 million in agency costs, and between $6 to $20 million in observer/monitoring costs. The trawl fishing fleet from Fort Bragg cannot afford to bear the costs of this program if it has to pay the maximum 3% for agency administrative costs and 100% observer coverage. The Council has not addressed these issues through analysis or mitigation of economic consequences of Amendment 20 on small fishing communities. Even though individual members of the Council will acknowledge that Amendment 20 is seriously flawed and should not be passed as is, we are being given the strong signal that it is a "done deal" because catch shares are the new national directive, so Amendment 20 will be passed now and supposedly fixed later. This is not the way to do business under the Magnuson Act and not what NOAA's policy should be.

Although NOAA professes in its Draft Policy to not put "catch shares first," its $54 million budget allocation devoted exclusively to the development of catch share programs makes us question whether NOAA's policy is really so neutral. If catch shares are truly just one tool in the tool box, then why are the Councils being given financial incentives only to develop catch share programs instead of incentives aimed at empowering Councils to design the best possible management measures for sustainable fisheries? Why are well-established limited access programs treated as if they must be automatically changed as a result of the Draft Policy? There should be no consequences to the Councils, either positive or negative, if they take the time to thoroughly evaluate the potential impacts of a proposed quota share, IFQ, or catch share program and then conclude that it is not a good fit for a fishery.

We recognize that evaluating whether catch shares are appropriate for a particular fishery is an expensive, complex, highly technical, and time-consuming process. Having invested the effort in designing a program, the natural inclination is to pass it regardless of whether it's the right thing to do for the fishery—exactly what is about to happen with respect to Amendment 20.

If catch shares generally, or Amendment 20 specifically, are designed to reduce capacity and overcapitalization and eliminate certain fishery participants, then NOAA and the Councils need to be upfront about that intent. Catch shares should not be promoted primarily as a conservation tool, and the negative impacts on communities cast as unintended but unavoidable consequences, if the end game is actually eliminating trawl fisheries from certain states. The human costs of Amendment 20 should not be treated as an afterthought. We want to continue fishing. But if the Agency and Council plan to make that impossible, then we and other long-time participants should be compensated fairly.

Fishermen who question the design and implementation of a particular catch share program are not the enemies of good fishery management. Catch share and limited access programs can have grave consequences for us, our families, and our communities.

Please do whatever is necessary to make sure that responsible, long-time fishermen can continue to fish and that small fishing communities like Fort Bragg do not disappear from America's coasts. If catch share programs with bad designs and inequitable allocations are pushed through as a result of the Draft Policy, in a very short period of time small fishermen such as ourselves will be gone, and only big vessels and big companies will be fishing out of a very few ports.

Thank you for your consideration of our comments.

[A letter submitted for the record by Giovanni (John) Pennisi, F.V. Irene's Way, follows:]

April 21, 2010

Subcommittee on Fisheries, Wildlife and Oceans
187 Ford House Office Building
(202) 226-0200

Dear Chairwoman Bordallo, Ranking member Brown and members of the subcommittee:

I write today in support of your efforts to help fishermen in the Monterey / San Francisco region make the transition to sustainable fisheries using catch shares, where appropriate. Whereas conventional management is increasingly pushing fishermen off the water to control over fishing, catch shares is a solution that keeps fishermen fishing while fish resources recover. The commitment to a National Catch Shares Program supports a continuing shift in fisheries policy that will quickly accrue benefits to fishermen and the oceans.

Current fisheries management is failing struggling fishermen and the oceans. Fisheries have declined, and thousands of fishing jobs have been lost as a result. Many valuable fisheries face huge closures or dwindling seasons, which will have devastating impacts on fishing jobs and coastal communities.

I know first-hand that conventional fisheries management is a no-win situation. I am a third generation trawl fisherman. Without more effective fisheries management tools, our livelihoods—and the resource—are increasingly threatened. I used to make a good living; now my fishing season continues to shrink, putting me out of business.

I believe that catch shares are a better alternative. Rather than continued shrinking seasons and closures, which push fishermen off the water, catch shares can provide for continued fishing, even as stocks recover, while increasing full-time employment, wages, and safety for fishermen. Catch shares can provide fishermen like me the ability to adapt my operation to earn more money when prices are high or fish when the weather is good.

Catch shares are locally-designed to meet economic, social, and conservation goals. Catch share management is not a one-size-fits-all approach; rather programs are designed to meet the specific needs and goals of each fishery. Today there are 14 different catch share programs managed by six different regional fishery management councils. Many more are slated for consideration and action around the country, including the West Coast Ground Fish Fishery region.

I urge you to continue your leadership in supporting fishermen and fish by supporting the development and implementation of catch shares in the Western region where it makes sense.

Thank you for your attention to this important matter. Your support will go a long way toward improving fishing jobs and ensuring healthy fisheries.

Sincerely,

Giovanni (John) Pennisi
F.V. Irene's Way
898 W. Franklin, Monterey, CA 93940

[A letter submitted for the record by Citizens for Gloucester Harbor follows:]

CITIZENS FOR GLOUCESTER HARBOR
c/o M. Sunny Robinson
20 Harvard Street • Gloucester, MA 01930 • 978–283–6049

March 18, 2010

Congresswoman Madeleine Z. Bordallo. Chairperson
The House Natural Resources Committee
Subcommittee on Insular Affairs, Oceans and Wildlife

Secretary of Commerce Gary Locke
U.S. Dept. of Commerce
1401 Constitution Avenue NW
Washington, D.C. 20230

Dear Congresswoman Bordallo and Secretary Locke,

On March 16, 2010, the Subcommittee on Insular Affairs, Oceans and Wildlife held an Oversight Hearing on "Catch Shares as a Management Option: Criteria for Ensuring Success". While we share many of the concerns raised by Members of Congress and witnesses, we urge a second hearing to cover problems in the Northeast fisheries sector management program, which will begin on May P. This second hearing should review the policies and practices of the National Marine Fisheries Service as they have diverged egregiously from the intent of the Magnuson-Stevens Act. Recent National Marine Fisheries Service (NMFS) actions in the Northeast fisheries constitute an assault on the viability of local fishing fleets, shore-side infrastructure, fishing communities, and ultimately on the goals of long-term protection and restoration of ocean ecosystems and fisheries.

Through this hearing, we are recommending clarification of the sector management program and alterations in the setting of fishing quotas/limits, on certain "choke" stocks, prior to May 1st. These measures would simultaneously support long-term recovery of fish stocks, sustainable fishing fleets, and economically viable fishing communities. These measures are all within the authority and jurisdiction of the Secretary of Commerce and do not require new legislation.

A pattern of actions taken by NMFS in recent years has been directed at the consolidation of fishing fleets, in the guise of achieving greater economic efficiency in the pursuit of conservation goals. This single-minded focus is driving small, locally owned and operated boats out of business, and unless changes, are made will eliminate the industry as we know it. Policies and activities that we believe subvert the intent of the Magnuson-Stevens Act that need to be examined include:

- Passage last year of a sector management system, which will be implemented on May 1st, despite great concerns about its viability and necessity;
- Frivolous and excessively punitive enforcement measures (documented by the Department of Commerce Inspector General) that have forced boat-owners out of fishing;
- Inadequate and shifting science and models that have had a history of underestimating fishing stocks;
- Diversion of funds away from cooperative research;
- Failure to conduct adequate research and/or failure to properly utilize existing research results;
- Overly strict limits on fishing that exceed what is necessary for stock recovery;
- Emphasis on shutting down entire fisheries once an impractical rebuilding rate is missed for ANY ONE species in a mixed species fishery, although it is clear, that in practice, all species do not recover at the same rate.

In particular, the sector approach, as currently planned, will inevitably lead to concentrated ownership. Larger vessels owned by outside investors will displace the smaller local family fishing businesses and local fisheries will be unable to compete. The effects on local fishermen, employment and economic activity in local ports, the safety of local fish stocks, and the long-term viability of ocean fisheries and ecosystems will be devastating.

Especially in New England, it is the fish caught, only hours before, by our small inshore day fishing boats for which our restaurants and markets are famous that will be most greatly impacted. An intentional destruction of this industry and replacement by large industrial ships that stay further at sea for longer trips would result in replacement of our fresh fishery with fish stored for days in ice or brine or frozen at sea. The policy of increasing efficiency by replacing small fishing businesses, both at sea and in small harbors ashore by a few larger concentrated industrial operations in a few large ports seems ill-advised in the present national economic and under employment crisis and will not enhance the sustainability of fishing stocks.

The history of economic rationalization, deregulation, and a singular drive for "efficiency" has had unintended and disastrous results in other economic sectors in the United States. The deregulation and subsequent collapse of financial markets is the foremost example of excessive reliance on free market ideology and "efficiency." Similarly, in agriculture, the ideology of free-market fundamentalism has led to devastated farming communities, unsafe and unhealthy food supplies, and toxic pollution.

Properly designed sector management can restore ecosystems and fisheries, protect local jobs, and secure safe and local food supplies, but only if the approach is based on principles of community-based management. As Dr. Elinor Ostrom (2009 Nobel Prize in Economics) and others have demonstrated repeatedly around the world, community-based management assures long-term sustainability of environmental, economic, and social values.

If perceived as a catch share system, as opposed to a temporary management measure, these goals will not be achieved. Therefore, we believe they ought to only be seen as a temporary management measure.

We particularly call attention to the fact that the National Marine Fisheries Service chose not to establish the sector approach according to the policies and procedures set forth in section 303A of the Magnuson-Stevens Act governing Limited Access Privilege Programs (LAPPs). LAPP would have required a review of proposals that would have been subiected to a very comprehensive and deliberate set of standards and process, where the interests of all parts of the fisheries, including fishermen, port communities, and other public interests and benefits would have been reviewed. The deliberate decision by the North East Fisheries Management Council (NERMC) to develop a comprehensive fishery-wide Sector allocation and management system that is not based on or consistent with MSA section 303(A) was largely based on ill-advised advice provided to it by the NMFS Northeast Regional Office.

NOAA needs to recognize that potential sector contributions (PSC's) should not be considered quota shares for the purposes of buying, selling and trading with any mid-term or long-term value. Nevertheless, because of confusion over the long-term status of PSC's, there is a danger in artificially inflated permit values. Local fishermen may be unable to pay higher prices for permits when they have to compete with speculative outside investors who are misinformed about the duration of the sector allocation,

In addition to the requested Congressional oversight hearing, we urge the Secretary of Commerce to take the following actions, before May 1st:

1. Issue a public notification stating that the non-LAPP status of Amendment 16 Sector Allocations and individual PSCs means the fishery is still open to allocation through a deliberate and free standing allocation amendment process. The statement should also make clear that PSCs are short term management currencies analogous to Days at Sea and have no long-term economic value. PSCs do not have the same effect as quota shares, unless NEFMC initiates a fully LAPP compliant amendment in strict compliance with the LAPP requirements in the Magnuson-Stevens Act.
2. Amend the sector management program by adding measures to prevent excessive consolidation and outside investment. Such measures should include: restrictions on the share of the sector that any individual fishing boat owner may hold (in the Alaska halibut fisheries, this share restriction is 1%); and a requirement that the owner-operator ()Idle PSC be on the boat when actively fishing at sea.
3. Increase the Total Allowable Catch (TAC) limits, particularly on species that would otherwise shut multi-species fisheries down unnecessarily, but not to exceed levels considered "overfishing". This increased flexibility would sustain the local fishing fleets through the next few years of the rebuilding of sustainable stocks.

These actions are all within the discretion of the Secretary of Commerce.

We thank you for your attention to these requests and look forward to hearing I) when an additional hearing to address these matters will take place and 2) what actions the Secretary of Commerce has taken.

Yours truly,

CITIZENS FOR GLOUCESTER HARBOR
Peter Anastas, Writer
Ann Banks, Board Member, Gloucester Maritime Heritage Center
Damon Cummings, PhD, Naval Architect
Henry Ferrini, Documentary Filmmaker
Jeanne Gallo, PhD, Social Ethics
Helen Garland, UN Representative of the World Forum of Fisherpeople
Jay Gustaferro, Lobster-man, Former Gloucester City Councilor
Marcia Hart, RN
Ann Molloy, Neptune's Harvest Organic Fish Fertilizer Company
Valerie Nelson, PhD, Economics
Steve Parkes, Coordinator, Cape Ann Fresh Catch—Community Supported Fishery
M. Sunny Robinson, RN
Angela Sanfilippo, Gloucester Fishermen's Wives Association

[A letter and resolution submitted for the record by The Honorable Jerome M. Selby, Borough Mayor, Kodiak Island Borough, follows:]

Kodiak Island Borough
Office of the Borough Mayor
710 Mill Bay Road
Kodiak, Alaska 99615
Phone (907) 486-9310 Fax (907) 486-9391

April 19,2010

To: 111th U.S. House Committee on Natural Resources
Subcommittee on Insular Affairs, Oceans and Wildlife
187 Ford House Office Building (Oceans and Wildlife)
Tel: (202) 226-0200 Fax: (202) 225-1542

The Kodiak Island Borough is home for one of the largest fishing fleets in the United States and the port of Kodiak has been one of the top three fishing ports in the United States for the past 30 years. Our economic base is fishing. Because of the damage we have experienced to our economy and people from the two catch share programs that have been implemented in Kodiak, we have serious concerns about the new Catch Shares policy that is being developed.

This new policy should place a strong emphasis on using the lessons learned about negative impact on jobs and communities' economies to minimize these negative impacts in the future. Before any new policy goes forward, we would recommend that hearings be held in the largest fishing ports in New England, the Gulf Coast, the West Coast, and Alaska to allow direct input from the people and communities where lives and economies will be directly impacted.

The Kodiak Island Borough previously adopted the enclosed Resolution No. FY2007-12 which identifies the framework that should be used in future fisheries policy. We are very interested in helping to develop future fisheries policy.

Thank you for the opportunity to comment. We stand ready to help.

Sincerely,

Jerome M. Selby
Borough Mayor
Kodiak Island Borough,

KODIAK ISLAND BOROUGH RESOLUTION NO. FY2007-12

A RESOLUTION OF THE KODIAK ISLAND BOROUGH ASSEMBLY PROVIDING FURTHER COMMENTS TO THE NORTH PACIFIC FISHERY MANAGEMENT COUNCIL ON GULF OF ALASKA RATIONALIZATION

WHEREAS, the harvesting and processing sectors of the Kodiak fishing community are substantially engaged in and substantially dependent upon Gulf of Alaska groundfish fisheries; and

WHEREAS, Kodiak's economic and social health is intimately dependent upon the community's sustained participation in all aspects of the Gulf groundfish fisheries; and

WHEREAS, the Kodiak Island Borough has made substantial investments in support of and in reliance upon the Gulf groundfish fishery, such as water system improvement and expansion and port and harbor improvements and expansion; and

WHEREAS, the North Pacific Fishery Management Council has developed a suite of fishery allocation alternatives for the Gulf of Alaska groundfish fisheries, and is working toward adoption of a preferred alternative for implementation; and

WHEREAS, allocating exclusive harvesting and/or processing privileges promotes consolidation in the fishing fleet and the processor sector, which can improve efficiency, but which can also result In skippers, crew members and processing workers bearing costs of consolidation without fully sharing in the related benefits; and

WHEREAS, while fishery rationalization may create opportunities and incentives to produce more and higher value products, it also changes the distribution of fishery revenues among participants with resulting disruptive effects on the communities in which they live; and

WHEREAS, by awarding harvesting and/or processing privileges, fishery allocations make possible orderly harvesting and processing, but it also facilitates the migration of landings to communities with infrastructure advantages (such as road system access) and creates barriers to entry for later generations of fishery participants; and

WHEREAS, as a result, it is essential that the potential adverse affects of Gulf groundfish rationalization be identified and analyzed and that adjustments be made

to mitigate the potential adverse effects of Gulf groundfish rationalization on Kodiak prior to any program implementation;

WHEREAS, it is the Kodiak Island Borough's intent that a full, and frank exchange of information and opinions concerning Gulf groundfish rationalization take place among the constituencies of the Borough that would be most directly affected by such program, if adopted; and to the extent possible, to encourage the development of consensus among these constituencies concerning the preferred elements and options of such program; and Kodiak Island Borough, Alaska Resolution No. FY2007-12

WHEREAS, the City of Kodiak and the Kodiak Island Borough joined together to appoint a Gulf of Alaska Groundfish Rationalization Task Force to provide a forum for the full, and frank exchange of information and opinions concerning Gulf groundfish rationalization and an opportunity for the development of consensus on preferred elements and options of a Gulf groundfish rationalization program, should it move forward; and

WHEREAS, while the Task Force is continuing to work, they have recently provided the Borough Assembly with a number of recommendations that the Borough Assembly is actively endorsing;

NOW, THEREFORE, BE IT RESOLVED, BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH THAT the North Pacific Fishery Management Council (NPFMC) suspend action on Gulf of Alaska groundfish rationalization until, at least, such time as the NPFMC has conducted its 18 month review of the Bering Sea crab rationalization program and the public has had an opportunity to evaluate and comment on the impacts of crab rationalization and to evaluate the NPFMC's adjustments (if any) to the crab rationalization program;

BE IT FURTHER RESOLVED THAT THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH requests that the NPFMC take the following Gulf groundfish management actions as soon as possible, notwithstanding the NPFMC's suspension of any further action on Gulf groundfish rationalization:

1. Initiate a discussion paper on an allocation of Gulf Pacific cod to ensure that it is fair and equitable participation among gear groups and all fishermen.
2. Initiate a discussion paper on phase-out of the offshore sector in the Gulf of Alaska.
3. Initiate a discussion paper on identifying and removing latent licenses from the Gulf groundfish sectors that are subject to the License Limitation Program.

BE IT FURTHER RESOLVED THAT THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH requests that the NPFMC is hereby requested to take the following actions in connection with its development of a Gulf of Alaska groundfish rationalization program:

1. Complete the Council's review of the Bering Sea crab rationalization program to enable the public to evaluate and comment on the impacts of crab rationalization and to enable the Council to make appropriate adjustments to the Gulf rationalization program in response,
2. Thoroughly analyze each alternative being considered by the Council before eliminating any of the alternatives, to provide the public with the opportunity to compare the effects of the various alternatives on harvesters (including skippers and crew members), processors (including workers), fishing support services, and Gulf fishing communities.
3. Include limits on harvesting consolidation through vessel use caps that apply without exemption, and that are calculated to sustain skipper and crew employment opportunities and compensation.
4. Develop and bring forward for consideration an additional alternative which includes no processor shares, linkages or privileges of any kind. For alternatives already being considered, include measures to maintain a diverse, competitive processing market, by providing a substantial pool of groundfish privileges for each sector that can be harvested without penalty and are not subject to processor linkage or processor closed classdelivery requirements. This should include phasing out of the off shore processing sector. Kodiak Island Borough, Alaska Resolution No. FY2007-12
5. If processing privileges are included, limit consolidation of such privileges through processor and facility use caps.
6. Designate Federal harvesting privileges by region to reflect landing patterns similar to those occurring prior to program adoption, and require that fish harvested under such privileges be landed in their designated region.
7. Include a reasonable groundfish allocation which may be harvested and processed without holding any Federal or State dedicated access privilege, subject to restrictions that the State of Alaska may deem necessary to maintain the entry level character of such allocation.

8. Include a community fisheries quota program that provides an opportunity for small Gulf coastal communities to enhance their residents' participation in the Gulf groundfish fishery, under the conditions that the allocation to such program does not disrupt other Gulf of Alaska fishery dependent communities by displacing their fishermen, is required to be harvested by residents of the eligible communities, and requires that harvests made under such program be delivered on shore within the region of their allocation.
9. Include a community purchase program that provides Gulf coastal communities with the opportunity to maintain participation by their residents in the Gulf groundfish fishery by acquiring harvesting privileges for use by their residents, under the conditions that the Kodiak Island communities are eligible communities, and such program includes reasonable limits on the amount of harvesting privileges that any single eligible community may hold.

ADOPTED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH THIS NINTH DAY OF NOVEMBER 2006

KODIAK ISLAND BOROUGH

Jerome M. Selby, Borough Mayor

ATTEST:

Nova M. Javier, CMC, Borough Clerk

[A letter submitted for the record by Capt. David Walker follows:]

April 14, 2010

The Honorable Alan B. Mollohan
Chairman
Subcommittee on Commerce, **Justice, Science** & Related Agencies
Committee on Appropriations
H–310 U.S. Capitol
Washington, DC 20515

The Honorable Frank R. Wolf
Ranking Member
Subcommittee on Commerce, Justice, Science & Related Agencies
Committee on Appropriations
1016 Longworth H.O.B.
Washington, DC 20515

Dear Chairman Mollohan and Ranking **Member** Wolf:

Thank you for the opportunity to **submit** testimony in support of the President's Fiscal Year 2011 National Marine Fisheries Service (NMFS) budget request for the National Marine Fisheries Service, and specifically the $54 million request for its National Catch Share Program (NCSP). The Administration's requested funding for a NCSP is critical to developing and implementing catch share programs that have been under development, including the implementation of an IFQ for the grouper fishery in the Gulf of Mexico.

Commercial fishermen, like me living in the Gulf region of the United States, have greatly benefited from the implementation **of** Individual Fishing Quota programs (IFQs), a catch share fishery management program, which have helped end overfishing while preventing and even reversing the collapse of fisheries. I urge you to support the Administration's requested funding for NMFS.

I would like to provide the Committee with some real world insights on how a catch share program can help to both improve the economics of a fishery and facilitate the conservation of the resource. Red snapper fishermen in the Gulf of Mexico have for many years faced depleted stocks and an uncertain future. It was a rather stable fishery until the 1970s and 1980s, when demand for fish began increasing as the technology to catch fish was improving. When regulators stepped in to establish catch limits, fishermen began racing against one another to catch as much fish as possible before the limit was hit and fishing was shut down for the year. **This** "derby" style system resulted in large discards of dead red snapper, a decrease in fish prices, higher operating costs and dangerous fishing conditions, as fishermen risked their lives and boats in dangerous weather.

To address the situation, **the Gulf of** Mexico Fishery Management Council began discussing management alternatives **to rebuild and** restore the fishery, and in 2007, the Council adopted an IFQ program, which had broad support from the com-

mercial sector. Under IFQs, each fisherman is allotted a share **of** the total catch and is held individually accountable for adhering to that limit. Fishermen are able to fish throughout the year when it is good for business. Closures are not needed to effectively manage the fishery. Further, as commercial fishermen, we are able to deliver high-quality fish to market when consumer demand increases and the weather is suitable for fishing. Under an IFQ program, fishermen can lease or sell shares if they are unable to fish for any reason. Best of all, with an IFQ program, fish are not wasted but retained and counted against the individual quotas. Under previous rules, fishermen were forced to throw fish overboard to comply with management directives.

The red snapper IFQ has empowered Gulf of Mexico commercial fishermen to be stewards of the resource and to run efficient operations and minimize the waste of fish. Furthermore, we have the ability to carefully target and market red snapper to earn more money with less fish. IFQs hold commercial fishermen accountable for their allocation and the health of the stock, and provide fishermen with an economic stake in the fishery.

An August 2009 report from NMFS Southeast Region stated that "two years after initial implementation of the red snapper IFQ program, progress has been made toward achieving [the] program's objectives ... [which] include mitigating derby fishing conditions and reducing overcapacity." [1] The IFQ's benefits are "numerous" and "include increasing flexibility for fishing operations; providing cost-effective and enforceable management of the fishery; reducing bycatch; eliminating quota overages; improving safety at sea; and optimizing net social, economic, and biological benefits from the fishery," according to the report. Importantly, since the end of 2006, the average exvessel value of red snapper has nearly doubled.

The commercial red snapper fishery was open for an average of 88 days—about one-quarter of the year—prior to the implementation of the IFQ program. During this period, fishermen were limited to either 200-pound or 2,000-pound trip limits and 10-day fishery openings per month. Under the IFQ, fishermen are not constrained by fishery closures or trip limits; a fisherman is limited instead to his annual allocation or red snapper that he can catch throughout the year. Subsequently, the NMFS report states that "the IFQ program has lead to greater efficiency for many red snapper IFQ program participants."

NMFS also cites the biological benefits resulting from the IFQ program, noting that in the first two years of the IFQ program "reported [commercial] landings have been below quotas." During the 17 years of management prior to implementation of the IFQ, the commercial quota was *exceeded* nine times. Similarly, NMFS found that the ratio of landed to discarded fish has increased three to four times since 2007.

Commercial catch share programs such as the red snapper IFQs in the Gulf of Mexico support good jobs in the seafood industry and throughout the broader economy. Catch share management results in more stable employment for fishermen, as well as their suppliers and buyers, lasting for longer periods of time. This stability is important to providing an economic environment that helps to sustain the long-term viability of communities that depend on the fishing industry.

The IFQ program currently in place for commercially-caught red snapper in the Gulf of Mexico has been extremely successful, as it allows fishermen to lower operating expenses, increases the price paid at the dock, and meets high conservation standards, which has improved both economic performance and safety at sea. A recovering fishery is good for commercial, recreational and other fishing interests. Catch share programs can only be successful with appropriate federal funding for NMFS to properly design and implement catch share programs **that work for** the fishermen, the resource and the region and the community.

I respectfully urge the Committee to **support** the Administration's budget request for NMFS, and specifically the $54 million requested for the NCSP. This funding is crucial to addressing the difficult fishery management problems facing the nation. It is also important to the development and implementation of the Gulf of Mexico reef fish IFQ.

Sincerely,

Capt. David Walker

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[1] 2008 Gulf of Mexico Red Snapper Individual **Fishing** Quota Annual Report, August 17, 2009. Southeast Region, National Marine Fisheries Service.