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"North Pacific Perspectives on Magnuson-Stevens Reauthorization"

United States Senate Committee on Commerce, Science, and Transportation,
Subcommittee on Oceans, Atmosphere, Fisheries, and the Coast Guard
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Good morning, Mr. Chairman and Members of the Committee. Thank you for the invitation to participate in today's hearing. My name is Michael LeVine, and I am Pacific Senior Counsel for Oceana. Oceana is an international nonprofit conservation organization dedicated to using science, law, and public engagement to maintain and restore the world's oceans. Our headquarters are in Washington, DC, and we have offices in five states as well as Belgium, Belize, Spain, Denmark, and Chile. Oceana has more than 600,000 members and supporters from all 50 states and from 250 countries around the globe. Our Pacific work is headquartered in Juneau, Alaska, and, together, our Pacific staff has more than 180 years of experience working and living in Alaska.

Oceana seeks to further the movement toward ecosystem-based management for healthy ocean ecosystems that include sustainable fisheries and vibrant communities. Our work in Alaska is central to that mission. The ocean waters off Alaska are vibrant and diverse—from relatively temperate areas in Southeast Alaska to the cold water coral gardens in the Aleutian Islands to the remote Chukchi and Beaufort seas. All of these productive waters provide important habitat for a diverse array of fish, seabirds, and mammals. This biological abundance helps support communities, recreation, and some of the most important commercial fisheries in the world.

Ecosystem-based management approaches are key to maintaining the healthy and resilient marine ecosystems that are the foundation of sustainable fisheries over the long-term. Changing climate and ocean conditions, habitat destruction, and declines in predator populations highlight the need to implement ecosystem-based management approaches, and the North Pacific Fishery Management Council (NPFMC) and National Marine Fisheries Service (NMFS) have taken important steps to move in this direction. The standards and process established by the Magnuson-Stevens Fishery Management and Conservation Act (MSA) are integral to those efforts, and we believe that—for the most part—the system is working well. In past reauthorizations, Congress has advanced the conservation mandate of the MSA by strengthening or adding provisions designed to further precautionary decisions and ecosystem-based management, and we encourage you to do so again. Fundamental changes are not necessary, and, certainly, Congress should resist efforts to move backwards toward a regime that we know leads to unsustainable fisheries and poor management of ocean resources.

My testimony today will focus on the importance of the ocean waters off Alaska and the manner in which the NPFMC and NMFS have implemented the MSA there. I will discuss the successes in moving toward ecosystem-based management and the opportunities to improve science, transparency, and representation.

I. THE NORTH PACIFIC AND ARCTIC OCEANS

Oceans and seas are our largest public domain. They cover more than 70% of the world's surface, and good stewardship of our ocean resources is vital to our lives and livelihoods. As the U.S. Commission on Ocean Policy recognized, "the importance of our oceans, coasts, and Great Lakes cannot be overstated; they are critical to the very existence and wellbeing of the nation and its people." Similarly, President Obama wrote that "America's stewardship of the ocean, our coasts, and the Great Lakes is intrinsically linked to environmental sustainability, human health and well-being, national prosperity, adaptation to climate and other environmental changes, social justice, international diplomacy, and national and homeland security."

Oceans provide economic opportunity, sustenance, recreation, cultural connection, and a variety of other services. Together, recreational and commercial fisheries provide over 1.5 million jobs in the United States. Coastal tourism provides another 28.3 million jobs and generates $54 billion in goods and services annually. In addition, oceans provide essential protein to nearly half the world's population. More than one billion people worldwide depend on fish as a key source of protein, and wild-caught ocean fish currently provide about as much animal protein to humans as eggs do. For these reasons and others, our priority for future decisions must be ensuring the long-term viability of our ocean resources through sustainable management based on science and precaution.

Nowhere are these statements and their implications for management more important than in Alaska. Our ocean waters—the Gulf of Alaska, Bering Sea, Aleutian Islands, and Chukchi and Beaufort seas—support rich and diverse marine life and important fisheries.

A. The Gulf of Alaska, Bering Sea, and Aleutian Islands

The Exclusive Economic Zone in the Gulf of Alaska, Bering Sea, and Aleutian Islands is larger than the combined federal waters off the east and west coasts of the United States. It is home to thirty-eight species of seabirds, twenty-six species of marine mammals (including seals, Steller sea lions, walrus, sea otters, polar bears, whales, dolphins, and porpoises), and thousands of species of fish and invertebrates. As in all ecosystems, this richness and diversity are part of a complex, interconnected food web. Fish play vital roles in this food web, which supports other species, including humans.

The Aleutian Islands ecosystem, in particular, is one of the most vibrant, dynamic, productive and rare ocean environments on the planet. At more than 1,000 miles, the Aleutian Islands form the longest archipelago in the world, and the area draws millions of seabirds and hundreds of thousands of marine mammals each year. The Aleutian Islands support more than 450 species of fish and shellfish, 260 species of migratory birds, and 25 species of marine mammals. Whales—humpback, blue, minke, and orca—as well as sea lions, seals, and other marine mammals frequent these waters. More than 38 million seabirds—including a wide variety of, gulls, petrels, puffins, murres, auklets, and terns—flock to the islands to nest. The ocean waters support salmon, halibut, rockfish, cod, and crab, among other fish and shellfish.

The Aleutian Islands ecosystem also harbors some of the most diverse and dense aggregations of cold water corals in the world. The density and diversity of these Alaskan corals rival tropical coral reefs, and there are deep-sea coral gardens that are unique to the Aleutian Islands. This

living seafloor forms habitat that provides nurseries, places to feed, shelter from currents and predators, and spawning areas for many marine species.

This biological richness supports extensive and lucrative fisheries. Each year, federal waters in the North Pacific are host to the biggest fisheries in the United States, which are some of the largest in the world. Together, the groundfish fisheries off the coast of Alaska account for 46 percent of all domestic fish landings. The pollock fishery in the Bering Sea and Aleutian Islands is the largest by weight in the U.S. and the second biggest in the world. Other important targeted species include sablefish, rockfish, and Atka mackerel. Combined, this catch is worth approximately $2.3 billion annually. In addition, the State of Alaska manages important fisheries in state waters. The Alaska salmon fisheries, for example, are one of Alaska's most important industries, with a harvest value statewide in excess of $650 million in 2013.

In addition to supporting a very important industry, fish also are crucial to other aspects of life in Alaska. In many places in the state, fish are central to subsistence culture. They also support recreation, tourism, and personal use. Healthy fish populations, of course are also an important component of the functioning ocean ecosystems on which Alaskans depend.

The success and continued viability of Alaska's fisheries are a testament to healthy oceans, science-based management, and suitable regulatory guidance. It is equally true, however, that not all of the effects from these fisheries are well understood and that conditions in our oceans are changing. If not properly managed, fisheries can have substantial negative effects on long-term ocean health and can become unsustainable.

By design, commercial fisheries in the North Pacific cause fish populations to decline to levels well below the historical norm. For most species, managers seek to maintain populations at 40 percent of their "unfished" state—meaning that 60 percent of the fish that were once in the ocean have been removed. Even this target, however, is not always met, and many stocks have been depleted well below the 40 percent threshold. As of 2009, fishery stocks in the North Pacific were projected at the following percentages of their unfished levels: Aleutian Island Atka mackerel (41 percent), Aleutian Island pollock (30 percent), Gulf of Alaska pollock (33 percent), Bering Sea pollock (27 percent), Bering Sea/Aleutian Islands Pacific cod (36 percent), and Gulf of Alaska Pacific cod (51 percent). In other words, today there exist nearly 70 percent fewer pollock, and nearly 50 percent fewer cod, in the Gulf of Alaska than were historically present.

While none of these species are considered overfished under the law, removing substantial amounts of biomass can have significant effects on the marine ecosystem beyond the immediate reduction in the population of that species. Large reductions in biomass of one species can affect predator-prey dynamics and create other disturbances in the food web. In addition, many of these fisheries are allowed to discard millions of tons of unwanted bycatch and, particularly through bottom trawling, destroy important habitat. As explained below, important progress is being made to address these potential problems, and we can best build on that progress by continuing the momentum toward ecosystem-based management.

B. The Arctic Ocean

The North Pacific region also includes the United States' portion of the Arctic Ocean, which encompasses the U.S. parts of the Chukchi and Beaufort seas. The majority of the coastal residents in the Arctic region of the United States are Alaska Natives and, for many, their culture is tied to subsistence harvesting; sharing of food; teaching youth how to fish, hunt, and gather resources; and celebrating successful harvests. The Arctic seas are a foundation of this subsistence way of life in coastal communities.

In addition to vibrant communities, Arctic waters also support some of the world's most iconic wildlife species, such as beluga whales, polar bears, walrus, and ice seals. The endangered bowhead, as well as beluga and gray whales spend time in these waters. In addition, millions of birds, including more than 100 species, migrate from nearly every corner of the world to feed and nest in the Arctic each summer. More than 100 fish species live in the U.S. Arctic Ocean, including all five species of Pacific salmon, capelin, herring, and various species of cod and sculpin.

Currently, there are no commercial fisheries in the U.S. Beaufort or Chukchi seas. As the region changes, however, commercial fisheries may become viable, and forethought is necessary to ensure that any fisheries that do develop do not compromise the health of ocean ecosystems or opportunities for the subsistence way of life. Basic scientific information would be needed to guide management. Large areas of the U.S. Arctic Ocean have never been surveyed for fish, and roughly half of the handful of surveys that were conducted in the US Arctic Ocean occurred more than 20 years ago. In addition, sampling has not been conducted frequently enough to provide a good understanding of year-to-year variability in fish distributions and abundance. The Arctic Fishery Management Plan provides the needed guidance now by precluding commercial fisheries until and unless sufficient science is in place to ensure good management decisions.

II. CONSERVATION SUCCESSES

The Magnuson-Stevens Act is one of our country's important success stories and, one, of course, with special significance in Alaska. As Senator Begich noted in 2011:

> This landmark legislation was originally sponsored by several great friends of Alaska—Senator Magnuson, our own Senator Ted Stevens, and Senator Inouye—and co-sponsored by several Republican and Democratic members of the Committee. It represented a truly bipartisan effort to carefully manage one of America's greatest assets, our fisheries.

In the nearly 40 years since it was passed by Congress in 1976, the law has helped prevent overexploitation by foreign fleets while providing managers with the legal tools to sustainably manage our nation's ocean fisheries. Its subsequent amendments have strengthened the conservation mandate in the statute with significant bipartisan support. The amendments have encouraged movement toward ecosystem-based management, and that movement has been led by managers in the North Pacific.

A. Implementing Ecosystem-Based Management Will Best Meet the MSA's Goals

According to the 2005 Scientific Consensus Statement on Marine Ecosystem-Based Management,

> [e]cosystem-based management is an integrated approach to management that considers the entire ecosystem, including humans. The goal of ecosystem-based management is to maintain an ecosystem in a healthy, productive and resilient condition so that it can provide the services humans want and need. Ecosystem-based management differs from current approaches that usually focus on a single species, sector, activity or concern; it considers the cumulative impacts of different sectors. Specifically, ecosystem-based management:
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> - emphasizes the protection of ecosystem structure, functioning, and key processes;
> - is place-based in focusing on a specific ecosystem and the range of activities affecting it;
> - explicitly accounts for the interconnectedness within systems, recognizing the importance of interactions between many target species or key services and other non-target species;
> - acknowledges interconnectedness among systems, such as between air, land and sea; and
> - integrates ecological, social, economic, and institutional perspectives, recognizing their strong interdependences.[1]

In the context of fisheries management, implementing ecosystem-based management approaches requires moving away from decisions focused narrowly on one species or stock. It is not sufficient simply to maintain populations of individual fish species at levels that will sustain commercial fisheries. Rather, managers must establish catch levels, allocate among gear types, and make other choices about where, when, and under what conditions fisheries may be prosecuted with an understanding of the implications of those choices on the rest of the marine ecosystem.

While managers need information about the manner in which environmental conditions affect fish productivity, consideration must be given to the effects that removing large quantities of biomass is having on the marine environment as a whole. Precautionary choices that are designed to protect the health and resiliency of the entire ocean ecosystem will help to ensure sustainable fisheries into the future. The MSA specifically encourages this approach and provides tools that allow for its implementation.

B. The MSA is Intended to Further Conservation of Ocean Resources

The MSA is the primary federal law governing fisheries management. Congress enacted it in 1976 to "provide for the protection, conservation, and enhancement of the fisheries resources of the United States."[2] It requires stewardship of the nation's marine resources, which Congress

[1] McLeod, K. L., et al., *Scientific Consensus Statement on Marine Ecosystem-Based Management* (2005), *available at* http://compassonline.org/?q=EBM.
[2] S. Rep. No. 94-711, at 37 (1976) (Conf. Rep.), *reprinted in* 1976 U.S.C.C.A.N. 660, 660-61.

deemed a "valuable national heritage."[3] In supporting the 1996 amendments to the MSA that he authored, Senator Stevens himself stated that the "whole purpose" of the Act is to "protect our fisheries and have a conservation ethic to be the major goal."[4]

The statute requires development of fisheries management plans (FMPs) which must include measures for the "conservation and management" of fisheries resources. "Conservation and management" is defined broadly to include considerations of food supply, recreational benefits, long-term adverse effects to the marine environment, and preserving options for the future. The MSA focuses on these broad conservation objectives, and FMPs must include measures designed to achieve them.

Since it passed the MSA, Congress has recognized areas in which improvement was necessary and amended the law to strengthen its conservation direction.[5] In 1996, for example, Congress—led by the Alaska delegation—took action designed to halt the "shameful waste" occurring in the nation's fisheries.[6] Senator Stevens noted the particularly dire circumstances in the North Pacific: "[I]n 1995, 60 factory trawlers discarded nearly as much fish in the Bering Sea as was kept in the New England lobster fishery, the Atlantic mackerel fishery, the Gulf of Mexico shrimp fishery, the Pacific sablefish fishery, and the North Pacific halibut fishery combined."[7] He went on to say that "[t]he waste in that area was as great as the total catch of all the major fisheries off our shores. These 60 factory trawlers threw overboard—dead and unused—about one out of every four fish they caught" and that, in enacting the bill, Congress "had a singular purpose," which was to put a stop to "this inexcusable amount of waste."[8]

Similarly, when it reauthorized and amended the MSA in 2006, Congress took action to require Annual Catch Limits and accountability measures designed to help prevent overfishing. It also refined the description and duties of Councils' Science and Statistical committees and provided explicitly for mechanisms to protect deep sea corals.

C. *Substantial Progress Has Been Made in Alaska Toward Ecosystem-Based Management*

In amending the MSA in 2006, Congress recognized that "[a] number of the Fishery Management Councils have demonstrated significant progress in integrating ecosystem considerations in fisheries management using the existing authorities provided under this Act." The North Pacific region was at the forefront of that progress and has continued its leadership since 2006.

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[3] S. Rep. No. 104-276, at 2 (1996), *reprinted in* 1996 U.S.C.C.A.N. 4,073, 4,074.
[4] 142 Cong. Rec. S10,794, at 10,810-11 (1996); see also *id.* at 10,811 (Sen. Stevens lauding the amendments as "the hallmark of conservation of fisheries throughout the world").
[5] *See, e.g.,* 142 Cong. Rec. S10,811 (statement of Sen. Kerry) (recognizing that the 1996 amendments would be critical to putting fisheries "back onto a sustainable path and literally avert an environmental catastrophe on a national level"); *id.* at S10,813 (statement of Sen. Gorton) (the passage of the amendments reflected "a statement by Congress that conservation of the resource must be a priority.").
[6] *See id.* at S10,820 (statement of Sen. Murkowski); 142 Cong. Rec. H11,418 (daily ed. Sept. 27, 1996) (statement of Rep. Young).
[7] 142 Cong. Rec. S10,810.
[8] *Id.*

The most apparent evidence of management success, of course, has been the sustained health of Alaska's ocean ecosystems and the continued viability of commercial fisheries in the Gulf of Alaska and Bering Sea. Moreover, the management structure in the North Pacific—including the manner in which it uses its Science and Statistical Committee—and the manner in which catch levels are established have been used as models for improvement in other areas.

In addition, the NPFMC and NMFS have taken a series of concrete steps to promote sustainability and move toward ecosystem-based management:

- At its February 2014 meeting, the NPFMC voted unanimously to adopt an ecosystem approach and vision statement. The policy includes value and vision statements and an implementation plan, and it is the Council's intent "to affirm the importance of healthy ecosystems for maintaining sustainable fisheries, and synthesize the Council's policy on ecosystem-based management." The NPFMC has an Ecosystem Committee, and the ongoing dialogue at the Council about ecosystem-level considerations is an important mechanism through which to ensure that future decisions account for changing ocean conditions and continue to provide for sustainability.

- The NPFMC created the Aleutian Islands Fishery Ecosystem Plan (AIFEP) in 2007 and has committed to moving forward with an FEP for the Bering Sea. The AIFEP is designed to "provide enhanced scientific information and measurable indicators to evaluate and promote ecosystem health, sustainable fisheries, and vibrant communities in the Aleutian Islands region." More generally, it provides a holistic look at the Aleutian Islands ecosystem, the available scientific information, and the potential implications of management choices. It is, therefore, an important tool through which ecosystem considerations can be integrated with specific fishery management choices. The Bering Sea FEP will be the second prepared in the North Pacific. It is likely to begin with a series of stakeholder meetings and hopefully will provide useful guidance for choices in that region in the future, including protecting representative habitats such as deep sea canyons.

- In 2009, the NPFMC unanimously approved, and NMFS implemented, the Arctic FMP. In recognition of the changing conditions in the Arctic and the fact that "unregulated, or inadequately regulated, commercial fisheries in the Arctic EEZ off Alaska could have adverse effects on the sensitive ecosystem and marine resources of this area," the Arctic FMP closes the U.S. Chukchi and Beaufort seas to commercial fishing until any proposed fishing can be conducted without harming the ecosystem or opportunities for subsistence. As the NPFMC noted, its "management policy for the U.S. Arctic EEZ is an ecosystem-based management policy that proactively applies judicious and responsible fisheries management practices, based on sound scientific research and analysis, to ensure the sustainability of fishery resources, to prevent unregulated or poorly regulated commercial fishing, and to protect associated ecosystems for the benefit of current users and future generations."

- Since 2006, the NPFMC and NMFS have taken important steps to identify and protect Essential Fish Habitat. In recognition of the importance of coral and sponge habitat as EFH, the Council and NMFS closed large areas of identified EFH to bottom trawling . Currently, almost 700,000 square miles of important habitat are protected from bottom trawling in the Gulf of Alaska, Bering Sea, and Aleutian Islands. In addition, through this process, the NPFMC and NMFS created the Northern Bering Sea Research Area, which is off limits to trawling pending development of a scientific research plan to guide management in the region.

- Over the past several years, important steps have been taken to cap and reduce bycatch. The NPFMC and NMFS have implemented caps on Chinook salmon bycatch in the groundfish fisheries in the Bering Sea/Aleutian Islands and Gulf of Alaska. The Council also has voted to reduce halibut bycatch in the Gulf of Alaska groundfish fisheries and is considering options to cap chum salmon bycatch. While these are important first steps, the caps are set at relatively high levels, and there is more work to be done to reduce bycatch and improve these measures.

- The NPFMC and NMFS have retained the overall harvest caps in the Bering Sea/Aleutian Islands and Gulf of Alaska management areas. The overall cap of two million metric tons in the Bering Sea/Aleutian Islands has been in place since 1984. It is an important conservation measure that helps ensure that catch levels are sustainable and that fish are available as prey in the ecosystem.

Steps like these will help ensure there are healthy ocean ecosystems for future generations, allow us to better meet the challenges of changing ocean conditions, and improve resiliency. The MSA requires conservation and encourages this sort of innovation.

III. OPPORTUNITIES MOVING FORWARD

The NPFMC and NMFS have used tools available in the MSA to move toward ecosystem-based management. Managers have been in the fortunate position to do so because we have healthy oceans that include many healthy fish populations. In order to continue moving toward ecosystem-based management in the North Pacific and to encourage similar progress in other places, we must: 1) maintain and restore fish populations to levels capable of supporting sustainable fisheries and healthy ecosystems; and 2) encourage holistic management based on ecosystem considerations, precaution, and inclusive, public decision-making.

It is important to note that, despite progress, management in the North Pacific is far from perfect. The lengthy, contentious history and current controversy surrounding protections for the endangered Western population of Steller sea lions is a good example of the problems that could be avoided by precautionary management. Beginning in the 1960s, the Western population declined precipitously, and it reached a low point in 2000, when it was estimated at 42,500 individuals—a decline of more than 80% from historic levels. That decline led to protection under the Endangered Species Act (ESA), a lengthy debate about how best to address it, and eventually contentious litigation that lasted from 1998 to 2003.

New protections were implemented in 2001 to limit the competition between the Atka mackerel, pollock, and Pacific cod fisheries and Steller sea lions, which depend on those species as prey. The new measures appear to have had some beneficial effect, as the population stabilized overall. Declines continued, however, in the western Aleutian Islands, and the population was not meeting criteria established in the Revised Recovery Plan that NMFS completed in 1998.

A new ESA consultation process was started in 2006 and completed in 2010. It concluded—as have all agency analyses of the issue—that fisheries may compete with predators, like Steller sea lions for prey and found that the groundfish fisheries, as then managed, still did not comply with the ESA mandates to prevent jeopardy to Steller sea lions and to prevent adverse modification of their critical habitat. As a reasonable and prudent alternative, NMFS implemented new protections for the species in the areas in which the population was still declining sharply—the Western Aleutian Islands. Those new protections touched off a new round of litigation—this time brought by the State of Alaska and fishing industry. The federal district court in Alaska and Ninth Circuit Court of Appeals upheld the agency's analysis and the new protections.

Nonetheless, the agency is now completing an Environmental Impact Statement and new ESA consultation process in which it is evaluating alternatives that would roll back the protections deemed necessary in 2010. Despite more than $100 million having been spent, largely in an effort to prove otherwise, the best evidence still suggests that competition with fisheries—which have been allowed to deplete important prey species by 50-70%—may cause jeopardy to the Western population. Thus, while there may be other factors contributing to the ongoing decline and failure to recover, competition with fisheries for food is one that we have the ability—and obligation—to mitigate directly. The best way to achieve this goal, while allowing for sustainable fisheries and supporting communities, is to implement an ecosystem-based approach in which fisheries management decisions ensure that there is sufficient prey for sea lions. If less time and energy had been spent fighting to take more fish from the ocean, we would be much further toward that goal.

Ecosystem-based management approaches will help to rebuild depleted stocks to levels at which they can support healthy ocean ecosystems and to ensure that currently healthy stocks do not become depleted. Thus, as Congress considers mechanisms through which it can improve standards and decision-making, it also must reject ideas that will move the country backwards toward a regime that results in overfishing and poor management. Weakening requirements for rebuilding depleted stocks or annual catch limits would prioritize short-term gain ahead of long-term sustainability. Though there are few examples in Alaska, we have seen fisheries collapse in other parts of the country, and there is no reason to step backwards from current rules designed to prevent that from happening again. According to NMFS, rebuilding all U.S. fish populations would lead to a $31 billion increase in annual sales and support for half a million new U.S. jobs. We should continue moving in that direction and resist pressure to sacrifice future generations' livelihoods to increase current profit.

From that foundation, Congress can make small changes in the MSA that will continue the movement forward toward ecosystem-based management. Formalizing some of the strategies and tools from the North Pacific would be a place to start; for example Congress could advance

conservation and ecosystem-based management by requiring development and implementation of fishery ecosystem plans and formally requiring protection of forage species. In addition, small changes could be made to strengthen requirements for counting and reducing bycatch and for protecting essential fish habitat.

Further, Congress could foster open and transparent decision-making by ensuring disclosure of important catch and bycatch data. The oceans are a public resource managed by public agencies, and information collected pursuant to that management should be publicly available. As one of his first acts upon taking office, President Obama committed to create "an unprecedented level of openness in Government," and "a system of transparency, public participation, and collaboration."[9] The administration has taken steps to implement this commitment to open government, and Congress can do the same.

Federal law sets a general standard for public access to information through the Freedom of Information Act (FOIA) while protecting private personal information, genuine trade secrets, and other valid confidentiality interests through FOIA and the Privacy Act. By layering additional unnecessary barriers to transparency on top of FOIA and the Privacy Act, fisheries law and regulations have hindered public participation and hindered the transition to sustainable fisheries. Unnecessary disclosure restrictions also hinder management choices. According to NMFS, the Bering Sea/Aleutian Islands and Gulf of Alaska groundfish fisheries "produce high levels of catch, ex-vessel revenue, processed product revenue, exports, employment, and other measures of economic activity while maintaining ecological sustainability of the fish stocks. However, the data required to estimate the success of these policies with respect to net benefits to either the participants in these fisheries or the Nation, such as cost or quota value (where applicable) data, are not available."[10] Removing barriers to disclosure will improve management and allow for full and fair public participation in the decision-making process.

In addition to public access to information, good management requires broad participation and consideration of diverse viewpoints. In that vein, we support broader representation on Councils, including tribes and conservation organizations. A more diverse set of voices at the decision-making table will help ensure that all information is given full consideration and that decisions are in the best interests of all stakeholders.

Further, it is absolutely vital to ensure compliance with other important environmental protections. Neither the substantive provisions nor the public process undertaken pursuant to the MSA are a substitute for the consideration of alternatives and important evaluation of potential impacts to the environment required by the National Environmental Policy Act (NEPA). Congress addressed this issue in 2006 when it required NMFS "in consultation with the Councils and the Council on Environmental Quality, [to] revise and update agency procedures for compliance with [NEPA]." There is no reason to do more at this time. Similarly, the Endangered Species Act provides an ultimate backstop for managers—proactive and

[9] Memorandum for the Heads of Executive Departments and Agencies, Transparency and Open Government (Jan 21, 2009), *available at* http://www.whitehouse.gov/the_press_office/TransparencyandOpenGovernment/.
[10] Fissel, B., et al. *Stock Assessment and Fishery Evaluation Report for the Groundfish Fisheries of the Gulf of Alaska and Bering Sea/Aleutian Islands Area: Economic Status of the Groundfish Fisheries Off Alaska* 1-2 (2012).

precautionary decisions should be made far in advance of causing jeopardy to an endangered species or adverse modification of critical habitat. Managing simply to avoid ESA restrictions is not conducive to recovering protected species or ensuring sustainable fisheries. As the Steller sea lion example above demonstrates, Councils, NMFS, and industry should strive for precautionary, science-based management to sustain fisheries and the predators they support.

Ultimately, good decisions will maximize benefits. Under the MSA, fisheries are managed to achieve "optimum yield," which is defined as "the amount of fish which—(A) will provide the greatest overall benefit to the Nation, particularly with respect to food production and recreational opportunities, and taking into account the protection of marine ecosystems; (B) is prescribed on the basis of the maximum sustainable yield from the fishery, as reduced by any relevant social, economic, or ecological factor; and (C) in the case of an overfished fishery, provides for rebuilding to a level consistent with producing the maximum sustainable yield in such fishery." The large commercial fisheries in Alaska reap substantial economic benefit. This benefit derives from a public resource—fish—managed by publicly funded entities—the NPFMC and NMFS. It is certainly true that some of the economic benefit returns to the States, the United States, and residents in the form of food, employment, taxes, the Community Development Quota program, and other associated opportunities. Similarly, there has been movement to implement the cost recovery provisions in the MSA.

In light of the current state and federal fiscal climates, however, it may be time to think carefully about how we craft this balance. We can and should think about the financial value of the public resource we allow private companies to extract and whether we are getting fair value for it. Similarly, there is a very clear need to invest in science to guide management—we can and must find ways to increase funding for science that will help us better manage individual stocks, understand the ocean ecosystem, and the impacts of fisheries in the ocean. It may likewise be possible to find new efficiencies in the Council process.

IV. CONCLUSION

Alaska's oceans are vibrant places that support our cultures, livelihoods, and recreation. We are making progress toward ecosystem-based management that ensures sustainable fisheries into the future and allows us to meet today's needs without compromising the long-term food security of our nation. The best path forward is to continue that progress and to rely on science and precaution to guide management choices. Just as America uses and treasures its national forests for more than timber production, so too do we now realize that Americans treasure our ocean habitat and marine life for more than maximizing commercial fisheries. We can best address the coming changes and challenges by providing for resiliency and holistic management to help maintain healthy ocean ecosystems that include sustainable fisheries and vibrant communities.