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SUBCOMMITTEE ON WATER, OCEANS, AND WILDLIFE
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Chairman Huffman, Ranking Member Benz, Dean of the House Congressman Young, and Members of the Committee—thank you for the opportunity to testify today. My name is Shannon Carroll. I have the privilege of leading fisheries and science policy priorities and Alaska public affairs for Trident Seafoods. I live in Girdwood, Alaska. I am a former commercial fisherman, with a background in conservation, natural resources, and fisheries law. I am a current board member on the North Pacific Research Board, a state advisor on the Pacific States Marine Fisheries Commission, and former member of the North Pacific Fishery Management Council's Advisory Panel. Above all else, I consider myself a conservationist, and I am proud to have spent the past seven years working in the North Pacific Fishery Management Council process, where science, transparency, and good governance are primary drivers of policy actions.

Trident was founded in 1973 as a single crab catcher and processing boat in the Bering Sea. It has grown over time to become one of the largest vertically integrated seafood companies in North America. To this day, we remain a private, family-owned company, that reinvests our earnings back into our operations and the development of new products and markets to keep wild Alaska seafood competitive in a global seafood market. We have a multi-generational view, and no exit strategy. I want to acknowledge the recent passing of our founder, Mr. Chuck Bundrant, and note that the values upon which he founded the company—community partnership, stewardship, and a genuine desire to forge a sustainable Alaska seafood industry that benefits all stakeholders—are still at the core of every decision we make today. It is why I am proud to work for this company.

Trident has primary processing plants in ten coastal communities in Alaska, adjacent to our fisheries, as well as secondary processing plants in Washington, Georgia, and Minnesota and in important markets for wild Alaska seafood around the world (Germany, Japan, China, Latin America). Each of our Alaska facilities are in remote fishery-dependent communities, inaccessible by road, where we are integral to the health of the community and economy. We process nearly every major commercial fishery species caught in waters off Alaska and serve a diverse range of harvesters throughout Alaska – from small setnet skiffs to large catcher vessels. We recognize the particular importance of serving family fishing operations that rely on income from their local fishery to sustain year-round household needs. Our experience is that it takes a mix of species, gear types, and big and small harvesters to be able to crew primary processing operations for shoulder seasons, which are typically unprofitable times to run but critical to our smaller and local harvesters. Trident also owns and operates its own fleet of harvesting and

support vessels, including four catcher processors, fifteen trawl catcher vessels, six crab catcher vessels, and various tender and freight vessels. We are committed to the partnerships that we have with the communities within which we operate, the more than 1,000 independent harvesters who depend on us to provide a competitive market, and our more than 8,000 employees worldwide.

Likewise, due to our vertically integrated structure, we serve an essential role in getting sustainable, healthy, certified, and traceable U.S. wild-caught seafood to consumers worldwide. In short, we are heavily invested in the long-term sustainability of marine resources and ecosystems and have made these investments because of the successful management framework created by the Magnuson-Stevens Fishery Conservation and Management Act (MSA).

Overview

Having spent much of my career working in fisheries, conservation, and government, I view the MSA as one of the most important and successful conservation statutes ever written. It has been the foundation for sustainable fisheries management in the United States for more than four decades. The unique and successful regional council structure has empowered direct stakeholders and created management measures tailored to the unique characteristics of vastly diverse fisheries across the United States. It has put science at the center of the decision-making process and insulated scientific determinations from political interference. It has reduced bycatch, improved accountability and transparency, and provided flexibility for managers to adapt to changing ocean and climate conditions. It has provided for development of area-based conservation measures, including measures in the North Pacific that close over sixty-five percent of the EEZ to some or all fisheries in order to achieve ecosystem goals.

As an Alaskan resident, I am especially proud of the contributions made to this public policy success by my home state. Forty-five years ago, Congressman Don Young teamed up with Congressman Gerry Studds to sketch out the framework for a new federal fisheries law. Alaska Senator Ted Stevens initiated a parallel process in the United States Senate with his Washington State counterpart, Warren Magnuson. The resulting legislation was a truly unique and visionary approach to resource management, one that recognized the importance of regional decision-making, stakeholder involvement, and balancing the difficult tradeoffs inherent in fisheries management. Decades later, when legislators sought to strengthen the MSA and put conservation more firmly at the heart of the statute, it was the 'Alaska model' that guided the reauthorization processes. The North Pacific Fishery Management Council's success in preventing overfishing and requiring managers to follow science-based catch limits became the new national standard. The 1996 reauthorization required all Regional Fishery Management Councils to end overfishing and rebuild overfished stocks. The 2006 reauthorization required Annual Catch Limits and Accountability Measures for all fisheries and ensured that it would be the Councils' Scientific and Statistical Committees that would establish strict catch limits based on the best available science.

Adherence to these key tenets of sustainable fisheries management have consistently served the North Pacific region well. In more than four decades, not a single Alaska groundfish stock has been overfished or subject to overfishing. This has ensured not only that our region's unique

marine ecosystems remain healthy, but also that our fisheries-dependent sectors and communities are able to thrive. Today, over 2.2 million metric tons of groundfish are harvested in the North Pacific each year, worth approximately $2.2 billion in first wholesale value and supporting approximately 90,000 jobs. As a strengthened Magnuson-Stevens Act has helped extend the 'Alaska model' to more U.S. fisheries, overfishing rates have declined and overfished stocks have been able to rebuild. Specifically, as of September 30th—when NOAA Fisheries last updated Congress on the status of fish stocks managed under federal fishery management plans—47 previously-overfished stocks had been rebuilt, and rates of overfishing nationally were near record lows. Today, thanks to the Magnuson-Stevens Act, our nation's fisheries are healthy, we have experience with tools to address emerging conservation or management challenges, and our fishing and seafood sector supports 1.7 million jobs. We are the global standard. Members of the subcommittee: this is what success looks like.

Which brings us to the legislation before us today. I want to thank all Members who have taken an interest in marine fisheries policy and are seeking to strengthen our existing federal laws. I know that these are good-faith efforts. Mr. Chairman, the process you have undertaken to gather stakeholder input, region by region, has been commendable and appreciated by the fishing industry. Thank you.

Given the success of our existing federal fishery management system, I believe one rule above all else should govern the subcommittee's approach to legislation that amends and reauthorizes the Magnuson-Stevens Act. That rule should be: first, do no harm.

Unfortunately, despite what may be the best of intentions, as currently drafted H.R. 4690, the *Sustaining America's Fisheries for the Future Act*, poses significant risks to our world-leading federal fisheries management system. Similarly, as currently drafted H.R. 5770, the *Forage Fish Conservation Act*, although also well intentioned, would create significant uncertainty in numerous fisheries, and could pose a particular threat to our region's Alaska pollock fisheries—which account for more than one-third of total federal fishery landings. Although I do not seek to provide a comprehensive analysis of these bills in my testimony, I hope my comments below will assist Members as they review these legislative proposals, assess whether they merit the support of this subcommittee, and consider potential changes to the drafts as currently written.

Sustaining America's Fisheries for the Future Act

Chairman Huffman's H.R. 4690, introduced on July 26th, is a sweeping MSA reauthorization proposal. It aims to advance reforms targeting five distinct areas, all critical importance—climate change; fishing communities; public process and transparency; fisheries science and data; and healthy ecosystems and improved fisheries management.

In doing so, however, H.R. 4690 too often departs from the core strength of the MSA and its National Standards framework, namely the compact between the federal government and the regions. Since 1976, Congress has set clear priorities and expectations through the National Standards framework. Experts at NOAA Fisheries have given those priorities and expectations specific meaning through guidance and rulemakings that provide an evolving roadmap for Council actions. Until now, however, the eight Regional Fishery Management Councils have

been far more than mere functionaries implementing the will of federal policymakers. Their autonomy, stakeholder-driven decision-making processes and regional expertise have been a central feature of the MSA framework. Accordingly, they have been afforded flexibility to meet the National Standards in ways that also meet regional needs and account for unique regional conditions. This balance is a centerpiece of the MSA's enduring success.

Too often, H.R. 4690 presumes to start from an entirely different premise: that the autonomy and bottom-up approach of the Regional Fishery Management Councils is in fact a problem to be fixed. The resulting reauthorization blueprint would weaken the Regional Council framework, and in so doing make our nation's federal fishery management system less durable and robust. Although some of H.R. 4690's provisions have the potential to win broad support, taken together this legislation appears to reduce management flexibility, upend region-specific solutions, create uncertainty, and impose additional costs and regulatory burdens on the management system and those who rely on it.

Title I of H.R. 4690 provides one such example. In the North Pacific we are on the front lines of climate change, and it is already a ubiquitous reality in our region's marine environment. Our Council and our stakeholders recognize this, and because our investments and businesses depend on long-term access to a sustainable resource, the Council, the Alaska Fisheries, Science Center, and stakeholders have confronted this reality to the extent that science, data, and funding allows. Here is a short, and by no means exhaustive, list of recent and ongoing Council actions to incorporate climate factors into the Council decision making process:

- **Council Ecosystem Policy**: ensures that ecosystem considerations are incorporated into the analysis and development of all fishery management measures;
- **Bering Sea Fishery Ecosystem Plan**: includes a Climate Change Taskforce that has a five-year work plan with the primary purpose to "facilitate the Council's work towards climate-ready fisheries management that helps ensure both short- and long-term resilience for the Bering Sea." The goal of this project is to evaluate the vulnerability of key species and fisheries to climate change and to strengthen resilience in regional fisheries management;
- **Alaska Climate Integrated Modeling Project**: this project describes and projects responses of the Bering Sea ecosystem – both the physical environment and human communities – to varying climate conditions. It connects research on global climate and socioeconomic projections to regional circulation, climate enhanced biological models, and socio-economic and harvest scenarios. This effort informs managers of the risks of climate change on fish and fisheries and enables the evaluation of a range of adaptation strategies; and
- **Annual Ecosystem Status Report**: provides an annual overview of the climate and oceanography conditions to stock assessment authors, the Council, and public, in order to allow for those factors to be incorporated into stock assessments.

The list above is in addition to multiple fisheries and ecosystem surveys conduction by NOAA, and the rigorous, precautionary, and science-driven approach to setting harvest limits that includes detailed analysis and a public process to test and review potential climate-related impacts on target stocks and the broader ecosystem. An example of swift action in response to changing ocean conditions occurred in 2018 with marine surveys that year detecting an extreme

decrease in abundance of Pacific cod in the Gulf of Alaska. The decline was linked to North Pacific hot spots, a sudden and acute marine heatwave and threat referred to as "the blob" at the time. The science-based Total Allowable Catch (TAC) setting process and marine mammal forage protections led to a swift closure of the directed fishery for the year. It was supported by regional stakeholders who have long been engaged with our system of TAC-setting.

A final example is one of a proactive and novel action in anticipation of changes in geographic range of important commercial species. Faced with increasing evidence of persistent decline in multi-year sea ice extent, the North Pacific Fishery Management Council recognized the potential for rapid change in the Arctic ecosystem. They took action to ensure any new fishing opportunity in the portion of our EEZ not already subject to commercial fishing would be appropriately regulated, and with input from Arctic community residents. In 2009, the North Pacific Fishery Management Council adopted an Arctic Fishery Management Plan explicitly closing federal waters north of the Bering Strait to commercial fishing unless and until sufficient science and management measures are in place to support doing so in a sustainable manner. This action preceded and helped to support a multinational approach to prevent overexploitation of fishery stocks and their habitats as waters open in the Arctic. We will increasingly need to consider proactive fishery management plan amendments to govern responsible access to species important to commercial and recreational fisheries that are moving due to changes in water temperatures or their traditional habitats.

By enumerating examples of the many actions that the North Pacific Fishery Management Council has taken to address climate change and its related effects, my objective not only to show what is possible under current law, but also to highlight the fact that all the above listed initiatives involve a transparent public process with many opportunities for stakeholder engagement. As currently drafted, Title I takes a different approach. Rather than empower the Councils, it contains prescriptive mandates that will consume Council time, divert resources, and in the case of my region and others already well advanced in this area, distract from the climate tasks at hand. Section 102(c) would require the *Secretary* to "assess the vulnerability of fish stocks within each Council's geographical area of authority to climate change," "notify each Council of the vulnerability of fish stocks within such Council's geographical area of authority," and "make recommendations to each Council for measures to conserve and protect such fish stocks." This runs directly counter to an approach consistent with the MSA's current framework, which would direct and empower the *Councils*—working with their respective Science and Statistical Committees, Plan Teams, and Fishery Science Center—to lead such efforts and be accountable for the results. This is occurring now in the North Pacific under the efforts described above. Similarly, the Section 102 provisions that mandate detailed new assessments related to climate impacts in all Fishery Management Plans and Plan Amendments are redundant and overly-prescriptive, given approaches that are already underway, including the use of annual stock assessments to track and respond to climate impacts.

Title III, Section 305 contains concerning language that would limit stakeholder engagement by mandating that the Secretary of Commerce appoint at least one individual to each Council who does not have a financial interest in matters before the Council. The Councils are already governed by comprehensive recusal regulations that prevent direct financial conflicts by Council members. This provision may sound good on the surface, but the concern is that the theme of the

provision seems to erode one of the core principles of the MSA and its framers, which is that direct stakeholders and those with expertise in the fisheries at issue are best positioned to contribute to the management and long-term health and sustainability of our fisheries. This provision would prevent knowledgeable Council members from asking probing questions, providing expertise and first-hand perspective, and conducting invaluable outreach that builds credibility in the process. The result will be a lack of qualified candidates that are willing to serve and a degradation of the quality, credibility, and thoroughness of the management decisions. Finally, there are already adequate conflict of interest and recusal safeguards in place. NOAA recently went through an extensive public process to clarify and revise its policy directive on recusals and conflicts of interest, and the final product appropriately balances the needs of transparency, fairness, and stakeholder engagement.

Also of concern are provisions in Title V, which, among other things, delete the practicability language from the current law. One cannot ignore the realities of implementing such provisions, creating the potential to throw U.S. fisheries into chaos and protracted litigation. Take Section 503, for example. This Section amends National Standard 9, which requires that conservation and management measures "minimize bycatch," but removes the existing qualifying language "to the extent practicable." The existing language of National Standard 9 is not a "loophole" as some have erroneously asserted. Rather, it is a recognition of the realities of fisheries and fisheries management. Incidental catch is a feature of all fisheries—whether they be commercial or recreational—and regardless of the gear type that is used. The requirement that bycatch be minimized "to the extent practicable" acknowledges this fact—just as National Standards 5, 7, 8 and 10 require that managers consider efficiency in the utilization of fishery resources; minimize costs and avoid unnecessary duplication; minimize adverse economic impacts on fishing communities; and promote the safety of human life at sea "to the extent practicable."

There can be no question that a new and unqualified National Standard 9 would create chaos in our nation's fisheries, with the potential for both positive and negative implications for actual bycatch trends. If Congress makes a deliberate and considered departure from a requirement that Councils minimize bycatch "to the extent practicable," by what measure would Councils or the Secretary judge whether a fishery has "minimized" bycatch? One extreme would be to require the cessation of all fishing activity. Another would be to consider any reduction in bycatch—no matter how negligible—is sufficient. At a minimum, the result is uncertainty for fishery managers as they attempt to balance the ten national standards, uneven application across fisheries and regions, litigation, and an upending of decades of established case law.

Before we create such significant instability, it must be asked whether the current language is inadequate in giving the regional councils the tools to minimize bycatch. From my experience in the North Pacific Fishery Management Council, the current language is meeting the intent of the proposed language. Since 2015, when I first started working in the Council process, reduction of incidental catch has been one of the top priorities of the Council. Among other bycatch-related efforts, in 2015, the Council took actions that have reduced halibut bycatch in the flatfish sector by 25 percent, and it is poised to secure further reductions through an abundance-based approach at its upcoming meeting. Last month, the Council took final action on a cooperative management structure for the Bering Sea/Aleutian Island (BSAI) Pacific cod trawl catcher vessel fishery, that will effectively reduce halibut incidental catch limits by 25% and Bristol Bay red king crab

incidental catch by 80% when combined with the existing management measures that reduce limits when biomass is low. With hard cap measures in place that result in fishery closures when reached, fleets are incentivized to take actions within their control to minimize risk of reaching the cap given uncertainty and factors beyond their control that could result in an unanticipated spike in incidental catch.

Incidental catch management is about more than hard caps as actual catch numbers are often well below cap levels. Our Council has implemented several cooperative programs that have given the fleet tools to make major gains in reducing incidental catch. In the Bering Sea/Aleutian Island pollock catcher-processor fishery—which is among the highest scored certified fisheries in the world—all vessels pay for two independent human observers, who carefully record not only total catch of the target species but also all incidental catch that occurs, including a complete census and genetic sampling of all salmon catches. Through the Pollock Conservation Cooperative, extensive gear and technological innovations such as underwater cameras, salmon lights, and salmon excluders have been funded by industry, improving pelagic trawl technology to exclude more non-target species. Fishery participants also pay to access and share detailed historical and current spatially explicit catch data across the entire fleet and for analysis of these data to help inform time and area fishing decisions to avoid predicted high rates of interaction with incidentally caught species.

As part of regulatory Amendments to the BSAI Fishery Management Plan, Incentive Plan Agreements are in place to reduce salmon incidental catch at all levels of pollock and salmon abundance. A key component of these Agreements is the use of near real-time data to inform incidental catch "hot-spot" closures, whereby vessels are prohibited from fishing in areas of known high salmon abundance as they change throughout the season. As a result of all these measures, and pollock harvesters' ongoing investment in technology and information to improve bycatch avoidance, for many years more than 98 percent of the catch in the BSAI Alaska pollock fishery has been pollock. These are the kind of successes that should be recognized and scaled up as we all continue to pursue fisheries that minimize bycatch to the extent practicable.

Similar concerns arise with respect to Section 502. The habitat areas of particular concern (HAPCs) process under the MSA's existing Essential Fish Habitat provisions have served a vital purpose. In many instances they have been a catalyst for Councils to establish new science-based conservation measures to protect and sustain some of the most important and vulnerable habitats in our oceans. Rather than build on this success, however, Section 502(a)(3) requires fishery managers to "take action to minimize and mitigate any adverse effect of [any] action on—(aa) the habitat area of particular concern; [and] (bb) the species for with respect to which the habitat area of particular concern is designated." The absence of qualifying language in this Section raises the very real possibility that no balancing would occur and courts would determine fishing activity to be impermissible if any adverse impact of any kind on HAPCs or the species for which they were designated is a consequence.

Finally, and more broadly, I am concerned that many of the changes proposed by H.R. 4690 will either create unfunded mandates or divert highly limited resources. **Funding for the core elements of successful fishery management—surveys, monitoring and data collection programs, research, and staffing—is a zero-sum game, and all these core elements are in**

constant jeopardy due to decreasing or stagnant funding. The implications of losing funding for this core work includes increased uncertainty in annual catch limits—resulting in more conservative quotas and less fishery dependent data collection—and fewer tools to integrate management resiliency into management decisions. In balancing the need for new requirements for Councils and the Secretary to carry out, one must consider whether the new requirements will come at the expense of other measures that have made the MSA so successful for the past forty-five years.

Forage Fish Conservation Act

The forage fish provisions of H.R. 4690—together with Congresswoman Dingell's free-standing bill, the Forage Fish Conservation Act—seek to impose special requirements on a subset of marine fisheries. In order to do so, they require the Secretary of Commerce to define "forage fish" within six months of enactment. In establishing a new definition of "forage fish", the legislation would require the Secretary to "consider factors including whether a species covered by such a definition, throughout such species' lifecycle—(1) is at a low trophic level; (2) is generally small- to intermediate-sized; (3) occurs in schools or other dense aggregations; (4) contributes significantly to the diets of other fish, marine mammals, or birds; and (5) serves as a conduit for energy transfer to species at a higher trophic level".

Underlying this legislation is an important recognition that the health of target species should not be the only goal of fishery management—broader ecosystem considerations are also critical. I completely agree, and it is in recognition of this obligation that the North Pacific Fishery Management Council has developed detailed regional ecosystem plans that inform all fishery management decisions. The Council has also chosen to consider forage fish as ecosystem component species in the North Pacific groundfish fishery management plans, which by definition means directed fishing is not allowed. These designated forage fish species include smelt, capelin, sand lance, lanternfish and krill. The Alaska Fisheries Science Center provides assessments of the health of these species or species groups even though directed fisheries are not allowed.

This successful approach has been developed and implemented under the existing Magnuson-Stevens Act and done through regional, transparent, and public processes. The challenge posed by the proposed legislative changes is that a single definition of "forage fish" will be required, and that definition will form the basis upon which new protections will be mandated. The reality, however, is that there is no definition that will satisfactorily demarcate "forage fish" from "target species" across every region. This is because nearly all species are prey to larger predators during their lifecycle and thus provide energy transfer up the food chain. Alaska pollock, for example—by far the largest commercial species by volume fished in the United States—satisfies all five of the criteria that are provided to inform the Secretary of Commerce in establishing a new definition of "forage fish." Alaska pollock (1) is at a low trophic level; (2) is generally small- to intermediate-sized; (3) occurs in schools or other dense aggregations; (4) contributes significantly to the diets of other fish, marine mammals, or birds; and (5) serves as a conduit for energy transfer to species at a higher trophic level.

If this legislation as drafted were to be enacted, the amount of data, research, analysis, and funding needed to fulfill this mandate would likely cripple the ability of regional councils and NOAA to carry out their other functions. Rather than artificially segment certain fisheries by creating a new national category of "forage fish," the subcommittee should find ways to encourage the more rigorous application of ecosystem-based management approaches already adopted in the North Pacific and other regions to identify, monitor, and protect forage fish.

Conclusion

Thank you again for the opportunity to testify on these important matters. I again urge support for effectively resourcing and implementing core research programs and management capabilities long-recognized as foundational to adaptive, responsible fisheries management, and to enable continuous improvement in how councils meet and balance competing objectives within MSA National Standards. I look forward to continuing to work with Members of the subcommittee, and I am available to answer any questions you may have about my testimony.