

**WRITTEN TESTIMONY BY**

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**For,**

**LEGISLATIVE HEARING HELD BY,  
THE HOUSE SUBCOMMITTEE ON WATER, OCEANS, AND WILDLIFE**

**On,**

**“THE STATE OF FISHERIES”**

**MAY 1, 2019**

**Introduction**

Good afternoon Chairman Huffman, Ranking Member McClintock and Members of the sub-Committee. It is an honor to appear before you today and a privilege to speak to the Committee. My name is Nick Cicero and I am the Sales Manager of the Folsom Corporation, one of the largest and oldest wholesale distributors and manufacturers of fishing tackle and outdoor apparel in the United States, servicing both chain and independent retailers. I serve on the board of directors of the Recreational Fishing Alliance (RFA), a national organization that fights for the rights of anglers, jobs in the recreational fishing industry, and the long-term sustainability of our nation’s marine resources. I also serve as an advisor on the International Commission for the Conservation of Atlantic Tunas (ICCAT). I am also a former professional sportfishing captain, lecturer and recreational fishing advocate. I have a vested interest in the management and the future of the recreational fishing industry. I am not an outsider casting an opinion on how I think

the fisheries should be managed. Both my livelihood and my future absolutely depend on how we manage the recreational fishing sector.

It is my intention today to discuss the management challenges facing the recreational fishing industry and to offer suggestions for the sub-Committee's consideration to address these challenges. These suggestions will be directed toward amendments that should be made to the Magnuson Stevens Fishery Conservation and Management Act (MSA) with the goal of spurring growth and prosperity in our industry while ensuring long-term conservation and sustainability of our nation's marine resources.

We have been talking about the need for MSA reform since the ink dried on the 2007 MSA reauthorization. There have been numerous congressional hearings on the topic, more than I care to count. Two national rallies were held in the Capitol and attended by fishermen, both commercial and recreational, from across the country. The theme of both rallies was MSA reform. I will not bore the sub-Committee with too many statistics and specific examples of problem fisheries. The problems in red snapper, cod, summer flounder, black sea bass, amberjack, and many other species are all well documented and have been discussed and analyzed in great detail. The limitations of recreational data collection and lack of confidence in the stock assessments for many fisheries are also well known; what our industry and the recreational fishing community needs now is action.

In simple terms, we need your help. We have been asking for your help since MSA was reauthorized in 2007 when amendments were made to the law that created a systemic management problem on a national scale and which is most acutely felt in the recreational sector. Looking back at original intent of MSA (public law 94-265) signed into law on April 13, 1976, one objective of the law was *to promote domestic commercial and recreational fishing under sound conservation and management principles*. This objective seeks to strike a balance between sound conservation and the needs of the fishing industry for our federally managed species which the entire recreational fishing industry very much supports and depends on. Unfortunately, this noble objective was altered in the 1996 and 2007 reauthorizations and current management can only be described as a failure, a total imbalance with recreational fishermen and the recreational fishing industry losing out. These amendments subscribed our nation to the 'abundance' theory of fishery management which places needs of fish at an inordinate level of priority while the needs of the fishing community and industry have been made an afterthought. Emotion and agenda supersede science. This is not sound resource management and this approach is not in line with the original intent of MSA. The 'abundance' approach produced the shortest seasons, lowest bag limits and highest minimum size limits in the history of management for red snapper, summer flounder, black sea bass and cod. The results of which have had devastating impacts on the recreational fishing industry. A healthy fishery is one that includes healthy fish stocks, strong participation by fishermen and thriving fishing businesses. Specific to the theme of this hearing, "The State of Fisheries", the answer to this implied question is that the 'abundance' approach resultant of the

2007 MSA reauthorization has failed the recreational fishing community. The facts of this failure lie within the analytics of our industry which I will expand upon in more detail.

The recreational fishing industry believes that it is important to impress upon the Committee three key points; urgency, jobs and fragility. First, our industry has been losing businesses and jobs at an alarming rate as a direct result of failed management measures forced upon the recreational sector due to MSA. These are businesses that once lost do not come back and our community permanently loses necessary recreational fishing infrastructure. In the 115<sup>th</sup> Congress, S1520 was passed in the House and Senate signed into law by the president on the last day of the legislative session. Titled the Modern Fish Act, the bill sought to address some of the fishery management problems that were being acutely felt in the recreational sector without doing a full reauthorization of MSA. At this time, industry leaders are working with executive branch officials on the implementation of the Modern Fish Act. It is expected that even under the most favorable interpretation of the Modern Fish Act, Congress will still need to address rebuilding flexibility and annual catch limit requirements. For this reason, it is imperative that Congress makes reauthorizing MSA a top legislative priority. Our industry expects and requires a bill to be passed and sent to President Trump's desk well before 2020 elections. Second, we ask that the sub-Committee look at the recreational fishing sector as an industry where access to fisheries afforded to individual anglers supports a \$60 billion industry comprised of thousands of businesses, large and small, manufacturing and retail. Recreational fishing businesses are not confined to coastal regions but span nearly all 50 states. Those businesses and jobs can be protected by giving anglers access to fisheries which in turn spur economic activity. Finally, our industry is extremely fragile. History has clearly proven that the recreational fishing industry is far more fragile than many of the stocks of fish that anglers pursue and MSA is charged with managing. The businesses in the recreational fishing industry cannot simply close their doors and wait until managers allow anglers to fish on rebuilt stocks again. Greater consideration must be given to the fragility of our industry when working to achieve conservation goals.

What we are talking here is a political problem, not a conservation problem. In fact, most of the regulations in many of our most popular recreational fisheries have gotten more restrictive as the stocks have increased. Under the current approach, stock size does not directly correlate to recreational opportunity, in many examples, just the opposite. In the simplest terms, focusing solely on abundance of fish is a failing management approach that has empirically been proven to hurt the recreational fishing industry. The solution will only come from political action.

Two areas where the recreational sector has been most negatively impacted are with the application annual catch limits and rebuilding.

Annual catch limits are particularly problematic in the recreational sector for two key reasons. First, when scientific information is poor or unreliable for a stock, setting the annual

catch limiting is done with a considerable amount of uncertainty. Uncertainty leads to precaution which can result in a significant downward adjustment to an annual catch limit. The second issue is the lack of an accurate and precise recreational data collection program that can monitor recreational harvest relative to an annual catch limit. The NAS recently conducted a multi-year investigation on the Marine Recreational Information Program (MRIP), the primary federal data collection system used to estimate recreational landings. This report did not determine if MRIP was adequate for the implementation of annual catch limits in the recreational sector. MRIP was simply not designed for year to year catch data but for long-term, broad geographic scale trends on effort, participation and catch. Therefore, the recreational fishing industry believes it is essential that the recreational fisheries be granted some exemptions from the annual catch limit requirements. As cited above in the striped bass fishery, the recreational sector can operate in the absence of an annual catch limit, even in an extremely popular species like striped bass, and the stock can still meet and exceed long-term conservation goals. It is unclear at this time how the passage of the Modern Fish Act will affect the application of annual catch limits on the recreational sector. The impact will lie with the how NOAA Fisheries develops its legal interpretation of the Act.

To eliminate any uncertainty, the recreational fishing industry supports amending section 302 (h)6 of MSA through a forth coming reauthorization of the Act and offers the following suggestions to be included in for that ;

*(6) develop annual catch limits or a range of catch for each of its managed fisheries that have an acceptable probability that such limits will not result in overfishing the fishing level recommendations of its scientific and statistical committee or the peer review process established under subsection (g);*

The recreational fishing industry also supports the inclusion of the following new language in a MSA reauthorization which would acknowledge the limitations of the recreational data collection programs and how problematic these data collection programs are when used with the application of annual catch limits.

*303a (15) an annual catch limit that based on a range of Allowable Biological Catch on an annual or multiyear basis consistent with the confidence intervals of the primary data collection programs and assessments used to monitor the sector of a fishery that is measured by a survey-based data collection system not designed to monitor annual catch limits or provide guidance on in-season adjustments;*

With respect to rebuilding, the recreational industry supports minor revisions to MSA section 304 (e)4(A)i. by changing possible to *practicable*. Such a change is consistent with the findings of the National Academy of Sciences (NAS) which recently published a report which found that rebuilding fish stocks as quickly as possible based on arbitrary time frames provided no additional long-term conservation benefits and results in unnecessary lost opportunities and negative socioeconomic impacts to fishing communities. This group of experts found rebuilding

timeframes should incorporate some flexibility to accommodate the needs of the fishing industry. In addition, NOAA Fisheries made regulatory changes to their interpretation of National Standard 1 Guidelines that also found that rebuilding fish stocks as quickly as possible did produce measureable conservation benefits. While many recreationally important fish stocks in the mid-Atlantic region have been rebuilt, many fisheries such as cod and red snapper may certainly need rebuilding flexibility as those fisheries near the end of their rebuilding plans. Rebuilding flexibility is a proven management tool and it should be made available to all federally managed species.

### **Conclusion**

In closing, I would like to express my appreciation for the opportunity to discuss the importance and urgency of amending MSA. There has been roughly 12 years of debate on the issue and the problems have all been laid on the table. The recreational fishing industry is in a precarious situation and it cannot wait any longer. Using my home state of New Jersey as an example, the Bureau of Marine Fisheries estimates a loss of 93,535 registered recreational saltwater anglers since 2011. This number represents a significant amount of lost tackle, bait, and charters sales that cannot be recouped. Since 2007, boat registrations have declined by 29,775 vessels, roughly a 2.58% decline per year. These same numbers are playing out in nearly every other coastal state as reported by the US Departments of Commerce and Interior. Our industry is declining; this is a fact that cannot be disputed. What also cannot be disputed is that the ‘abundance’ management approach; a non-science based, emotion-driven approach, is a contributing factor to this decline. This approach has proven to be a failure that has inordinately hurt the recreational sector. The state of the Nation’s fish stocks is good; the state of the fisheries, particularly the recreational fishery, is bad as far as access goes and it could certainly use improvement. Science and sound resource management practices need to prevail over emotion and agenda.

We are asking members of the sub-Committee to move forward a bill that includes provisions supported by the recreational fishing industry and that were included in bills in the 115<sup>th</sup> Congress such as HR2023 and HR200.