

The Honorable Richard Pombo
Chairman, House Committee on Resources
2411 Rayburn House Office Building
Washington, DC 20515

May 16, 2006

Dear Chairman Pombo:

The Joint Ocean Commission Initiative has identified fisheries management reform and, more specifically, reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), as one of its top priorities. We have been encouraged by the hard work that both the House and the Senate have dedicated to this issue during the 109th Congress. While leaders on Capitol Hill have articulated various thoughts on MSA reauthorization, the Joint Ocean Commission Initiative is committed to a set of fundamental principles that it believes should ground all ocean policy reform (enclosed).

We are encouraged to see elements of the Joint Initiative's principles addressed in H.R. 5018, the American Fisheries Management and Marine Life Improvement Act. Below we highlight key provisions we are pleased to see included in the Committee's bill, identify opportunities for the Committee to further strengthen some of these provisions, and express our serious reservations over a few provisions that we feel should be removed from the bill.

We start by applauding the bill's requirement for the Secretary to establish a peer review process to evaluate the scientific information used by the Regional Fishery Management Councils (Councils), underscoring the need for good science to drive the fishery management process. This valuable section could be enhanced by providing more guidance regarding the standards and criteria used in the peer review process, while also clarifying the public's role in reviewing and commenting on this information.

The bill also mandates the Science and Statistical Committees (SSCs) to recommend acceptable biological catch levels and requires the Councils to adopt harvest levels that do not exceed the recommended levels. This requirement represents a big step toward fulfilling the Commissions' recommendations but could be strengthened by clarifying the meaning of the "acceptable" biological catch, removing the option allowing "other annual harvest effort control limits" as part of this provision, and adding language that will ensure compliance with these limits. Setting annual catch levels is a means of ensuring that overfishing is ended, and deducting overages from subsequent years is an accountability provision. In effect, the actual catch (including discards) can be compared to the catch limit as a performance measure of the effectiveness of management. Setting an annual catch limit does not preclude management measures that regulate fishery inputs, such as effort controls, closed areas, and gear

requirements. These management methods can be fully employed, but the catch limit ensures that the output from the fishery meets conservation goals. In this context, it is not appropriate to have annual effort control limits as an alternative to catch limits in the requirements.

We were also pleased to see the provision mandating that financial support be provided for nongovernmental SSC members. This beneficial change will help to ensure greater participation and more effective review of fisheries data by experts in the scientific community. The Committee should also consider expanding opportunities for greater public representation on the Council by requiring the Governors to submit a broad slate of candidates, including two representatives from the general public.

The Joint Initiative notes that H.R. 5018 promotes the use of cooperative enforcement agreements, requires training for new Council members within six months of their appointment (which should be tied to their voting privileges), supports the use of Vessel Monitoring Systems, and the collection of socioeconomic data collection. These are all important steps toward the development of a system that more fully incorporates fishermen into the management process, makes the difficult job of enforcement more efficient, and allows for more informed decision making by Council members, particularly in the difficult matter of balancing economic and ecologic objectives.

The bill's support for use of limited access privileges (LAPs) and clarification of the need for national standards to guide the development of these programs are encouraging. LAPs represent an effective management tool that should be available to the Councils; however, the bill should strengthen this provision by clarifying that LAPs are a privilege by requiring periodic reviews of the plans and assigning quota share for a limited time period. The bill should also clarify the need for full public discussion and consultation with all affected stakeholders and interested parties in the development of LAP programs.

The transition toward an ecosystem-based management approach is a principle that the Joint Initiative believes to be extremely important. While it is encouraging to see language in the bill supporting further research into the state of science regarding the integration of ecosystem considerations into fisheries management, the development of regional research plans, and regional stock assessments, we would like to see the Committee make a further commitment toward managing fisheries in a broader context. The bill should explicitly encourage the Councils to support a transition toward an ecosystem-based management approach, with the objective of moving towards the development of fishery ecosystem plans. Such an approach would promote managing fisheries within the broader context of regional marine ecosystems, which would improve managers' ability to account for and address cumulative effects of fishing and nonfishing activities that impact the functioning of the ecosystem, the health of fish stocks, their prey, and important habitats. Commercial and recreational fishing are the major extractive activities impacting the health and productivity of living marine resources and marine habitats in state and federal waters. The reauthorization of the MSA provides Congress with a unique

opportunity to demonstrate its recognition of the need to transition toward a more sustainable management strategy for the long-term ecologic and economic health of the industry.

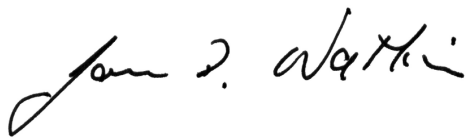
The Joint Initiative would also like to express serious reservations with a few proposed revisions to the MSA contained in H.R. 5018, including changes to requirements to comply with the National Environmental Policy Act (NEPA) and coordination with the National Marine Sanctuaries Act. While the Commissions recognized and recommended the need for better coordination and integration of ocean-related statutes, we do not feel that the partial integration of NEPA provisions into the MSA and the delegation of Secretarial authority to make a NEPA consistency determination are appropriate strategies to address this problem. NEPA's role is to ensure careful and full consideration of the environmental impacts of all classes of activities and their alternatives. Allowing the Secretary to make a determination that MSA-related actions are consistent with NEPA will inevitably lead to similar requests by other industries. Such a process would seriously compromise the integrity of NEPA and would increase, not decrease, inconsistency in natural resource management policies. We appreciate the desire to harmonize MSA and NEPA requirements and timelines, and recognize that an improved regime would facilitate better adaptive management. However, these desires must be balanced with the larger need to fully understand, reconcile and balance fishing's impact on the ecosystem, which is the primary role of the NEPA process.

We are also concerned about the provision that would impose MSA requirements on fishing activities within the confines of national marine sanctuaries. We fully support the MSA's fundamental principles of full and open public participation process, its grounding in the use of best available science to justify management decisions, and the need for activities in sanctuaries to respect explicit statutory prohibitions related to fishing that are established by Congress in the MSA or other legislation. However, we do not think that applying the MSA's guiding principle, which includes promoting the full utilization of fisheries, is always appropriate within sanctuaries, given the special recognition granted to sanctuaries and their resources. This matter should be debated and addressed during deliberations to reauthorize the National Marine Sanctuaries Act.

Finally, the bill's provisions for rebuilding fish stocks are also of concern. The bill describes many new instances in which the stock rebuilding time frames could be extended beyond the ten years called for in the MSA. If fishery productivity is reduced due to factors other than fishing, fishing pressure must still be reduced. It is not a matter of assigning blame, but of adjusting fishing pressure to a level that the resource can sustain. Continuing to extend the rebuilding timeframe makes it far more difficult to rebuild overall, causes even greater economic and social impacts, and means an ongoing loss of resources. The collapse and delayed recovery of New England groundfish fisheries, such as Gulf of Maine cod, illustrates the problems resulting from continued delays in implementing strong rebuilding measures, requiring increasingly severe economic impacts as stock biomass is depleted.

We commend you for your efforts to undertake Magnuson-Stevens reauthorization in the 109th Congress. The Magnuson-Stevens Act is the cornerstone of our fisheries management regime. Its regional management process, reliance on strong science and public participation, and call for transparency of the information upon which management decisions are based are central to its effectiveness. Enhancing these elements during its reauthorization is crucial and long overdue. We look forward to working with you and your staff on H.R. 5018 so that it can fulfill the principles that the Joint Ocean Commission Initiative believes are essential to fisheries management reform.

Sincerely,



James D. Watkins
Admiral, U.S. Navy (Retired)
Chairman, U.S. Commission on Ocean Policy



The Honorable Leon E. Panetta
Chair, Pew Oceans Commission