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Statement of
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Mr. Chairman, members of the Commission on Ocean Policy and guests thank you for the opportunity to provide input into your important work. I realize that your mandate in regards to the U.S. involvement with the oceans is broad, the tasks assigned are important and ambitious and the time to complete your work limited. Thus, I shall go directly to my concerns.

Should there be changes in regards to the NMFS and/or to the Council structure?

I think most of us who have followed the Commission's work are acutely aware that the government's ocean related agencies, cooperation between them, and manner in which they carry out their legislative charge have been under scrutiny. It is not my intention to comment on mega institutional problems and/or cooperation between agencies having similar, or perhaps, at times, overlapping mandates. I am, however, concerned, with the future of the National Marine Fisheries Service and the Council structure. It is frequently noted that the system is broken and that overfishing has become ubiquitous over the past several decades. It is hard to hide the fact that when NOAA was formed, just over three decades ago (1970), an Assessment of the Status of Stocks of important commercial species exploited by U.S. fishers indicated that of the 279 taxonomic groups evaluated about three percent were clearly overfished and perhaps up to ten percent could have been overfished. A report to the U.S. Congress this year notes that by 2001 about one

out of every three stocks for which data were available was overfished. Although the method used in these assessments differed it is not a good report card and a reason for the Commission to consider means to alter the course of historical management.

Over the past several months, while discussing this issue with several members of the Commission, I was asked why has the North Pacific Fisheries Management Council (NPFMC) been so successful in comparison with other Councils? I have only some general opinions to compare the activities of the Councils on the eastern seaboard with those in the Pacific. On the other hand, I have some strong views on why the NPFMC has worked out well in terms of the status of the fish stocks under their jurisdiction vis-à-vis the Pacific Fisheries Management Council (PFMC).

1. In the early stages, both the NPFMC and the PFMC had an advantage over most other Councils in that the setting of most Allowable Biological Catches (ABC's) and Total Allowable Catches (TAC's) were designed to phase-down and out foreign fishers, while enhancing the opportunities for domestic fishers.
2. Many fishermen in both regions had fished either under state; International Pacific Halibut Commission (IPHC) or International Pacific Salmon Commission (IPSC) management regimes and they had grown accustomed to and accepted the process of setting biological yields established by scientists. The establishment of the Scientific and Statistical Committees (SSC's) was seen by fishers as a positive component of the management process. Both the North Pacific and Pacific Council's SSC's worked extensively and directly with the Councils before and during meetings to address fishery yields and other scientific issues under consideration.
3. Off Alaska the quantities of groundfish were extensive and no significant domestic bottom fishery was in existence. Thus, setting conservative ABC's or TAC's was popular with the Council constituents and it helped to facilitate the phase out of foreign fishermen.
4. Even after the foreign fisheries were largely phased out, the quantities available to U.S. fishermen were immense and the problem for a considerable period was not reductions in the level of harvests, but encouraging their use.

5. The NPFMC and its major fishing groups, including trawlers, promoted and put in place an extensive observer program to better quantify fishing mortality on directed and non-targeted species.
6. As the U.S. groundfish fishery began to expand off Alaska, there was a built-in resistance to its unconstrained growth. That is, the extant historical fisheries of the region (halibut, salmon and herring), which had been given a priority status by the Council, tended to favor conservative TAC levels for the groundfish fisheries of the region. The establishment of protected species quotas limited the exploitation pattern and rate for the growing U.S. bottom fishery.

While the PFMC also made effective use of its SSC, the region had active line and trawl fisheries that were protecting their economic interest and were promoting expansion of domestic harvest. Second, the industry did not, at the onset, feel that bycatch was an important factor affecting the status of exploited stocks and resisted an observer program. The PFMC's problems appear to have stemmed from:

1. Failure to properly account for discards and a series of early management actions aggravated the bycatch problem.
2. Incorrect scientific assumptions and/or interpretations of the age of slow growing rockfish species that were a significant component of the catch. (The natural mortality of many rockfish species was overestimated leading to estimates of annual yields that were not sustainable.)
3. A seeming reluctance on the part of industry to deal with the bycatch issue.

Unfortunately, the aging technical problem impacted so many species that were such a large component of the exploited biomass that by the time the problem was remedied during the late 1990's the stocks of many of these species had collapsed. Since that time, the PFMC has undertaken a number of steps to rebuild the overfished stocks.

In other areas of the U.S., there appears to have been limited effort on the part of the Councils to utilize the SSCs as a component of the day-to-day management process. In fact, in many instances the Councils along the eastern seaboard did not even meet at the same time and there appears to have been a credibility problem between the users and the NMFS scientists, which at times engulfed the Council SSC's. Further, it was more difficult to implement management actions because of a long history of fishing in an open and largely unregulated fishery and the strong political position of the users and their resistance to being managed. One has to assume that the authority invested in the Secretary of Commerce had become so weakened that the built in safety blanket would not or could not function. Thus, overfishing proceeded.

Is there a fix to this problem, independent of a major reorganization of this agency and other ocean related agencies? That is, can NOAA and the Council's do a better job in managing our fishery resources? I believe the answer is yes and to a large extent improved management of the fishery resources off our nation's coasts has already started. Non-government conservation organizations and public opinion have forced the process to change. There have been suggestions that the authority to establish or recommend ABC's be taken away from the Councils. I don't think this would be a good move. Where would these decisions be made if taken from the Councils? The job could be assigned to the NMFS, but this would shift the science and the ultimate arbitrator of the science into the same institution. It would devalue the importance of SSC's and minimize scientific inputs from state and academic sources. These are essential to credibility of the science input.

Perhaps a better solution would be to beef up the responsibility of the SSC in the following ways:

1. The SSC should be responsible for formulating the ABCs for all species under their management or proposed management. The proposed harvest values along with supporting information should be officially presented at formal Council meetings.
2. The SSC's should always be in attendance at Council meetings when TACs and ABCs are under discussion.

3. Upward adjustments of the SSC established ABCs should be allowed only after a Council petitioned the Secretary of Commerce for an adjustment and subsequent authorization.
4. The SSC membership should constitute a reasonable balance between state, academic and federal government scientists.
5. The power of the Secretary of Commerce to turn down petitions for increased harvest or a faulty management plan should be given a booster shot.

The Councils should have the full range of tools available to manage the fisheries under their jurisdiction.

In recent years, Congress had tended to micro manage fisheries, eliminating certain management tools or superimposing certain regulations on the Councils. This process tends to limit the Councils effectiveness in fishery management. Congress should rescind all laws limiting the use of any limited entry method and/or other fishery management tool.

The goals of managing to achieve ecosystem principles should be clearly stated and locked into legislative language and should not be vague nor generic in character.

Over the past decade, there has been increased attention given to the commitment to manage using ecosystem principles. Peter Larkin, one of the international leaders in promoting conservative management regimes, noted a few years before his death that "Ecosystem based fishery management is effectively shorthand for more holistic approaches to resource allocation and management." This raises the question what is, or are the objectives of fishery-based management? In an announcement of this years Mote Foundation seminar on this subject the planners note that implementation of ecosystem management "will involve specification of additional constraints in elements of fishery management policy to effect preservation of biodiversity, habitat integrity and trophic structure." These are very general terms without any explanation of what may be necessary to achieve these goals.

It is, for example, unlikely that any level of fishing can be undertaken without some changes in the natural levels of biodiversity taking into account the broad ecological definitions of biodiversity. We must address whether or not the quantitative and qualitative aspects of biodiversity that we wish to protect can be made more explicit? Or, will we be left with generic goals that have no dimensions? Accepting the fact that certain fishing methods alter, damage and disturb the seabed, do we intend to eliminate all fishing that generates such problems even if the impacts are temporary and restricted to a relatively small portion of the continental shelf and/or slope? I submit that success of management employing ecosystem principles may well depend on societies ability to specify and agree on the desired characteristics of various ecosystems and the expected levels of products they should produce. Quoting from Link's article in the April 2002 issue of Fisheries "Collectively prioritizing these products, maintaining the ability of a system to continue to produce these products and these services and recognizing the impacts of fishing on the other aspects of the ecosystem remains a key challenge for national and international resource management." Although science is likely to play an important role in defining the attributes of biodiversity, habitat integrity and trophic structure that require protection, one cannot escape the fact that advocacy groups will co-opt the products of science and reshape them to influence the political process that has and will always be a part of shaping fishery management.

I suspect, that at least one of the unexpected consequences of adopting management using ecosystem principles could be the adoption of policies and management based on uncertainty, the precautionary principle and generalizations regarding the impacts of fishing on ecosystems. In this environment, the litigious sectors of our society may find fertile grounds to plow and we may see a significant component of our management played out in the courts. This, however, will in part depend on how well ecosystem principles can be translated into needed actions and the status of information available at the time they move towards ecosystem management. It may also depend on the clarity of legislative language used to define expected goods and services from ecosystems and the properties of ecosystems that must be protected to achieve the desired outputs.

