

**CAPT. JOHN MCMURRAY
OWNER/OPERATOR "ONE MORE CAST" CHARTERS
TESTIMONY ON "NEW ENGLAND AND MID-ATLANTIC PERSPECTIVES ON MAGNUSON-STEVENS ACT
REAUTHORIZATION"**

**OCEANS, ATMOSPHERE, FISHERIES, AND COAST GUARD SUBCOMMITTEE
COMMITTEE ON COMMERCE, SCIENCE & TRANSPORTATION
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Chairman Begich, Ranking Member Rubio, and members of the Subcommittee, thank you for inviting me to share my perspective on the Magnuson-Stevens Fishery Conservation and Management Act (MSA) in the Northeast region. My name is John McMurray.

I've run a relatively successful fishing charter business for well over a decade, employing three boats and three captains. I sit on the Mid Atlantic Fishery Management Council, one of eight regional fishery management councils in the United States. I'm also the Director of Grant Programs at the Norcross Wildlife Foundation, which has distributed over 30 million in equipment grants, much of that used by organizations focused exclusively on fisheries and marine habitat protection.

All of these positions, give me a unique perspective. However, today I'm offering testimony mostly from the viewpoint of a charter boat captain, small business owner and a father.

While being a charter boat captain may seem like a dream to some, it's actually very difficult and quite stressful. In this business, there are long hours (not just running trips but maintaining boats), early mornings and little time for sleep, clients who are paying what seems like a lot of money to catch fish, and daunting overhead expenses. Add to this the fact that at in my region fishing is seasonal, so most Captains, like me, have at least one other job they have to attend to. However, the most nerve-racking aspect of this business is the dependence on a host of completely uncontrollable variables, such as weather, water temp, clarity, bait concentrations, salinity, chlorophyll levels etc. But *nothing* is more important to a sustainable business model than an abundance of fish to catch. Without such an abundance of fish, other variables matter little.

With that in mind I'll focus on summer flounder (aka fluke). Summer flounder is one of several Mid Atlantic fish populations that are currently at or near historic highs. That was not always the case; as recently as 1990, the population had been so badly overharvested that it was nearly impossible to find a fluke more than two years old. For years, fishing for summer flounder was dismal, with few fish meeting the 14-inch size limit that prevailed at the time. Things began to turn around after Congress enacted the Sustainable Fisheries Act, which, for the first time, mandated an end to overfishing and required overfished stocks to be rebuilt within a time certain, which in most cases was ten years. At first, the Mid-Atlantic Council seemed to dismiss the conservation provisions of the new law, as it adopted a supposedly compliant amendment to the summer flounder management plan that had only had an 18% chance of succeeding. However, after a federal appeals court found that plan inadequate in *Natural Resource Defense Council v. Daley*, and decided that, at a minimum, a fishery management plan must have no less than a 50% chance of ending overfishing and rebuilding a stock within the established deadline, the Mid-Atlantic Council adhered to the mandate of the law and made a determined effort to rebuild overfished stocks. As a result, it is now the only regional fishery management council where, to

the best of its knowledge, no stock is overfished, none are subject to overfishing and just one, tilefish, remains in the rebuilding stage. My charter fishing business has certainly benefitted from the Mid-Atlantic Council's actions.

On the water, I see more fluke than I have ever seen in my 13 years as a Captain, or my 25 years as a saltwater angler. This is one fishery where I don't have to stress about abundance levels. Frankly, up until the last few years I never even bothered with them, as the inshore fishery was composed almost exclusively of small, young fish. The large ones were few and far between, and you generally had to go out to 60 or even 90 feet of water and fish with 10 or 12oz of lead if you wanted to catch them. Today, summer flounder make up a substantial portion of my business, as 20-inch-plus fish are relatively abundant and can be caught in shallow water close to home. They are really fun to catch on light-tackle and they are great eating fish. My clients really enjoy fluke fishing these days, and it seems to be consistently good from May to September, providing me and my clients something to target in the traditional "dog-days" of summer. I'm booking more trips now during what has historically been a slow time of the year.

Business interest aside, this fishery has become a recreational staple for my family. Early in May of this year I took my 4-year old twins out for their very first fluke trip. First drift in a spot less than 5 minutes from where we live, my son catches a 28" fluke. Second drift my daughter sticks a 24" fish. As is usually the case with 4-year-olds, attention spans ran out quickly, but only after several more large beautiful fish. The look of pure and utter joy on their faces were worth more than any aforementioned business interest. We now try and do such family trips at least once a week. We all look forward to them.

THIS is what a fishery rebuilt under the current Magnuson Stevens Act looks like, and it exists because the Mid-Atlantic Council made the hard decisions and adopted the hard caps on harvest that they recognized were essential to successfully rebuilding the stock. But those decisions were not popular at the time that they were made.

It was inevitable, given how badly summer flounder and other stocks had been overfished prior to 1996, that there would be some economic pain associated with the summer flounder's recovery, which was suffered not only by the commercial fishing industry, but the recreational fishing industry as well, which saw its seasons and bag limits shrink while the stocks recovered from decades of overfishing. However, the facts now demonstrate that such pain has been well rewarded.

In the Mid-Atlantic, according to the National Marine Fisheries Service, recreational fishermen caught some 2.7 million summer flounder in 1989. In 2011, after rebuilding, that number jumped to more than 21 million fish. That's a 700 percent increase! NOAA fisheries service's numbers show angler trips over the last decade along the Atlantic Coast up 41 percent from the 1980s. In the Mid-Atlantic alone, according to the fisheries service, by the mid 2000s, that has brought in an additional \$1.4 billion in economic activity and supported 18,660 jobs. On the commercial side, the success story is similar. Gross commercial revenues for summer flounder are up more than 60 percent since 2000, when the rebuilding plan was put in place. And, in total, all of the rebuilt fish stocks brought in, on average, \$585 million in gross commercial revenues every year from 2008-2010.

During the rocky road to recovery many in the fishing industry said rebuilding couldn't be achieved -- the rebuilding goals were too ambitious, the timelines were too tight, and that catch limits were too strict. But it's precisely because of such management action that we're once again catching those larger, older

summer flounder. I take clients out on fluke trips now and know that we have a good shot at landing big fish and that I won't have to fillet 14-inch juveniles. It's more enjoyable for everyone!

Without a doubt the Magnuson Stevens Act requirements for science-based goals and firm deadlines serves the general public, who own the resource, even if a few business interests may have suffered a short-term decline in profits. But, as the aforementioned statistics show, even they now benefit from a fully restored stock. Perhaps more importantly, I can take my family out with a reasonable expectation of catching a few keepers and so can other Dads.

The story is similar for other recreationally important fish the Mid Atlantic Council manages, such as black seabass and scup. But of course the picture is not all rosy. Some management problems remain. In the summer flounder fishery, because the size limit is considerably higher than it has historically been (undoubtedly the reason there are large fish around now), the recreational discard mortality (about 10% of the throwbacks don't survive) is significant. This is a problem deserving of the Mid Atlantic Council's attention, and it's getting it. Yet, I can't help but note that the fishery has been rebuilt despite such discards, so overfishing was clearly a much bigger problem and, in the end, something eats those fish; they all go back into the marine ecosystem. There are also serious "fairness" issues with the state-by-state allocation system that currently exists, but that is a complicated political issue and I'm not sure any "fix" to the Magnuson Act would help.

In the black seabass fishery there are issues with uncertainty in the stock assessment and the way accountability measures are applied in the recreational fishery. Because of imprecise estimates that show big picture trends rather than year-by-year accuracy, accountability measures such as pound-for-pound paybacks are not practicable. But the Mid Atlantic Council is in the process of developing reasonable solutions to such problems. Such individual solutions should be created by the competent regional Councils as they arise elsewhere. Changes in Magnuson that will inevitably effect all fisheries to fix regional species-specific problems would be a form of legislative overkill that likely would, when applied across the board, create far more problems that they solved.

Summer flounder, and the other fisheries managed by the Mid Atlantic Council, provide a good example of how this Council took the right approach to management, setting hard catch limits and enforcing them, despite the political pressure brought by some narrow economic interests. They stand in stark contrast to the still-depleted fisheries managed by, for example, the New England Fishery Management Council, which relied on various input controls such as trip limits, days at sea, etc. in order to avoid setting poundage limits on landings, and so never effectively reduced harvest. Now truly painful measures are required because they failed to embrace effective measures—such as hard harvest caps - since the Sustainable Fisheries Act was enacted in 1996.

My business has been directly affected by such failure, for while the summer flounder's recovery has been spectacularly successful, the collapse of the winter flounder, jointly managed by the New England Council and the Atlantic States Marine Fisheries Commission (ASMFC), has been dismayingly sharp and complete. Even two decades ago, New York anglers could legally catch winter flounder throughout the year, although the "traditional" start of the fishery was St. Patrick's Day, March 17, and anglers often came home with buckets overflowing with fish. Today, we are limited to a 60-day season in April and May, and permitted to keep only 2 12-inch fish per day. In 1984, New York anglers harvested nearly 7,400,000 flounder; in 2012, they harvested 43,500. When NMFS finally realized the depth of the flounder's distress in 2009, and closed the fishery in federal waters, ASMFC left the state seasons open. But that doesn't really matter to me, because instead of booking flounder trips in March, I keep my boat

on land because, even if the law still allowed it, no one is going to book a charter trip to catch two 12-inch flounder.

Unfortunately, winter flounder are only one of the species managed, in whole or in part, by ASMFC that haven't fared very well, precisely because that management body doesn't have to comply with Magnusson Stevens Act standards, may ignore overfishing and is not required to rebuild overfished stocks. Striped bass remains ASMFC's only notable "success", but the real success took place 18 years ago after things got so bad that many states imposed a moratorium on the fishery, and it was finally recovered under a management plan that protected 95% of the spawning stock, a far higher level of protection than is imposed under the vast majority of the plans created pursuant to the Magnusson Stevens Act. And the current outlook for striped bass is not good. ASMFC's 2011 Stock Assessment Update states that the striped bass spawning stock biomass will fall below its threshold in 2017, which means that the stock will be overfished in four years; despite that fact, proposals to reduce harvest and stop the decline have been deferred or rejected by ASMFC's striped bass management board, pending a new stock assessment.

ASMFC rarely, if ever, takes action to avert a crisis. Unconstrained by federal law, it waits until such stocks are on or beyond the threshold of disaster before action is taken. I have already mentioned its failure to adopt the New England Council's measures to protect winter flounder. Weakfish, which used to be a substantial portion of my spring business, provide a similar example. Today they are virtually gone; the last stock assessment indicates that just 3% of the spawning stock remains, yet ASMFC refused to follow the advice of its scientists, who advised that closing the fishery was the only way that the stock might *begin* to recover by the year 2020.

Abandoning the conservation and management provisions of the Sustainable Fisheries Act, in favor of an ASMFC-like model, as some in the recreational fishing community are now suggesting, is a step back in time that will ultimately hurt both fish and fishermen. Firm rebuilding deadlines appear to be the only things that get managers, who are often under intense pressure from constituents to continue overfishing, to take action. As unpopular as they may be, hard quotas represent the only approach that has ever fixed things.

As a member of the Mid-Atlantic Fishery Management Council I can tell you that implementation of the 2006 Magnusson Stevens Act Reauthorization has not been easy, but it is important that we stay the course. The Magnusson Stevens Act is working, and this is important for my business, my community and my family. The Mid-Atlantic has turned the corner and ended overfishing, and we have rebuilt depleted fish populations like summer flounder, black seabass and scup. Such success and has improved fishing, the coastal economy, and the ocean environment for the long-term. Now is not the time to retreat from the hard work we've done and the progress we are seeing on the water.

Last year NOAA Fisheries announced that the end of overfishing is in sight, with annual catch limits, mandated by the 2006 reauthorization, now in place in all federally-managed fisheries. In a marine environment where overfishing has long been the rule, reaching a point where it is the exception is indeed a milestone. Having each council's Science and Statistical Committee, rather than politically-pressured state managers and other council members who, like myself, make a living from catching fish, set the upper limit for allowable catch results in far more effective management plans. Congress should not weaken the Magnusson Stevens Act's conservation provisions just as they stand on the threshold of success, for those measures are responsible for the turnaround in the Mid-Atlantic and around the country, and the last thing we want to do is to go back to the failed policies of the past.

Still, there are certainly improvements to the Magnusson Stevens Act that should be made. The most important is to create a funding source for the science needed to produce better stock assessments, as well as funding for improved data collection and monitoring of our managed fisheries. Black seabass provide a good example of such a need. The species' life history—they are the only protogynous hermaphrodite found north of Cape Hatteras—creates a challenge for managers. The most recent stock assessment was rejected in January 2012. Fishermen argue that there are plenty of black sea bass around and that landings can be safely increased, but given the currently available information, managers can't prudently concur. The only way to find the real answers is to dedicate adequate financial resources.

We also need better protection of forage and guidance on ecosystem management. National Standard #1 says we will prevent overfishing while achieving the "optimum yield" (OY) from each fishery. OY is defined as providing "the greatest overall benefit to the Nation," taking into account food production, recreation and protection of ocean ecosystems. In reality, though, the ecological consequences of fishing – "ecosystem overfishing" – are rarely considered when catch limits are set fishery-by-fishery. We know through experience that even what is commonly referred to as "sustainable fishing," especially of keystone predators or prey, can cause dramatic shifts in ecosystem communities. Councils need statutory guidance on developing regional Fishery Ecosystem Plans that apply basic ecosystem principles to all fishery management decisions. A new National Standard requiring that all management measures prevent ecosystem overfishing would give these comprehensive plans teeth, a change that will in turn trigger new federal guidelines akin to what we have done to prevent conventional overfishing

Lastly, as a recreational industry member of the Mid Atlantic Council, I would like to see statutory language that requires a periodic—every five years or so—look at the allocation between sectors to provide the greatest overall benefit to the nation, as the Regional Councils are generally uncomfortable addressing such unpopular questions on their own.

This concludes my testimony. Thank you for the opportunity to provide these comments.

Sincerely,

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