

**WRITTEN TESTIMONY BY**

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**LEGISLATIVE HEARING ON HR 3906, HR 6007 AND HR 6096**

**BEFORE THE**

**COMMITTEE ON NATURAL RESOURCES**

**SUBCOMMITTEE ON FISHERIES, WILDLIFE, OCEANS AND INSULAR AFFAIRS**

**UNITED STATES HOUSE OF REPRESENTATIVES**

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Introduction

Good afternoon Mr. Chairman and Members of the Committee. It is an honor to appear before you today and a privilege to speak about a fishery that holds such profound importance to the recreational saltwater fishing community and the history of our nation. My name is Jim Hutchinson, Jr. and I am the Managing Director of the Recreational Fishing Alliance<sup>1</sup> (RFA). I also serve as the President of the New York Sportfishing Federation<sup>2</sup> (Federation).

The importance of striped bass is steeped in the earliest history of our Nation. Striped bass represents one of the most important natural resources endemic to North America, one that fueled the development and economic growth of the country. Atlantic striped bass has been described as a uniquely American fish by exhibiting high levels of resilience and persistence; characteristics shared with the early colonists and settlers that made our country great. Legend has it that striped bass was actually the staple source of protein at America's first Thanksgiving

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<sup>1</sup> The RFA is a national 501(c)(4) non-profit political action organization whose mission is to safeguard the rights of saltwater anglers, protect marine industry jobs, and ensure the long-term sustainability of our Nation's marine fisheries. The RFA represents individual recreational fishermen, recreational fishing boat manufacturers, party and charter boat owners and operators, bait and tackle businesses, marina operators, and other businesses dependent on recreational fishing.

<sup>2</sup> Established in 1981, the New York Sportfishing Federation is a not-for-profit organization recognized nationally and locally at all levels of government as the voice of the recreational fishing community in New York State. Through the dedicated efforts of our volunteer members, the Federation works to unite the varied interests of New York's recreational fishing community, bringing together the views and concerns of all recreational users and business owners throughout the marine district.

meal, and it's historical record that the Pilgrims would not have survived their first harsh winters in the Plymouth Colony without the sustenance that striped bass provided. In fact, our nation's very first public school was founded there at the Plymouth Colony with income derived from the striped bass fishery.

As early as the 1640's, fishermen were working with legislators along the Atlantic coast to ensure that this valuable, renewable resource was utilized in the most responsible and economical manner. This historical account provides the context for establishing the premise that fishermen hold the distinction of being the first and most persistent conservationists and stewards of our marine resources.

Prior to the modern advent of environmental organizations who assert they know best how to manage the nation's fisheries, fishermen assumed the function of advocate, scientist, manager, and conservationist long before these roles were defined in the modern fisheries management regime. Fishermen held the only firsthand knowledge of the species and they knew what steps were necessary to manage the stock in a responsible, sustainable manner. This is not to say the past 370 years of striped bass management has not been without its challenges. However, the current socioeconomic benefits enjoyed by recreational anglers and coastal communities is the direct result of fishermen's strong desire to see striped bass managed in a sustainable manner and working closely with state and federal legislators to achieve that goal.

Striped bass continues to be one of the most important Atlantic coastal fisheries. Striped bass is an extremely accessible fishery in that it is available to a wide demographic of anglers who fish from different modes (land, pier, private vessel, charter/headboat vessel) and in both inshore and coastal waters. Deemed fully rebuilt in 1995, recreational anglers continue to have reasonable access to the fishery due to a flexible and adaptive management approach utilized by the Atlantic States Marine Fisheries Commission (ASMFC). The ASMFC and therefore striped bass, are not bound by the mandates of the Magnuson Stevens Fishery Conservation and Management Act (MSA), the nation's primary federal fisheries law. Many of the recreationally important species under the federal purview of MSA such as cod, black sea bass, summer flounder, and red snapper have been rebuilt or are in a positive rebuilding trend. Yet, recreational anglers engaged in those fisheries continue to see their access eroded due to relatively recent management requirements resultant of the MSA reauthorization of 2007. Many of these requirements force the use of management tools on the recreational sector which simply cannot be applied in a fair and responsible manner due to design and limitations of existing data collection programs. The striped bass fishery is not strangled or constrained by these same management requirements and consequently, most recreational fishermen view the rebuilding of striped bass in a much more positive light compared to summer flounder, cod or red snapper. Striped bass management represents a fair and more efficient approach that has proven to allow fishermen to fully realize the benefits of their conservation ethic and rebuilding efforts. In this regard, the federal system under MSA continues to fail.

Fisheries management is a dynamic affair that does not end once a stock is rebuilt. Transitioning from rebuilding a stock to maintaining a stock with the intentions of providing the greatest benefit to its users presents a unique challenge. Specific to striped bass, the stock has emerging management issues including disease, illegal harvest, inadequate forage in localized areas and

declining recruitment which may result in a slight decline in the stock size and harvest over the next few years.

The Committee indicated that two bills will be discussed today, HR3906 and HR6096. Both bills have implications for these challenges and I appreciate the opportunity to comment on them.

#### Management Lessons Learned from Striped Bass

Striped bass has rightfully been described as a fishery management success. It is a species with significant commercial and recreational importance that had declined to near collapse in the early 1980's before being rebuilt to historic levels of abundance<sup>3</sup>. Ironically, this success was realized outside the jurisdiction of MSA and prior to the passage of the Sustainable Fisheries Act of 1996 which reauthorized MSA and mandated a strict framework and timeframe for rebuilding federally managed fish stocks. Striped bass was rebuilt in a "flexible and responsive"<sup>4</sup> manner without the burden of rigid rebuilding timeline, annual catch limits or accountability measures which are relatively new management tools. From a conservation and socioeconomic standpoint, the manner in which striped bass was rebuilt and maintained proved successful for both the stock and the fishermen.

Striped bass, as an anadromous species, demands a complex conservation approach due to its life history characteristics. Environmental conditions and water quality issues have a tremendous impact on the resilience of striped bass and its ability to successfully reproduce on a continuing basis.<sup>5</sup> The ASMFC holds jurisdiction over the direct management of striped bass but it does not have the regulatory authority to impose water quality standards or regulate discard permits in striped bass spawning areas. Unlike a summer flounder, cod, or tuna that spawn in the open-ocean many miles from point and non-point sources of pollutions, striped bass reproduce in areas where pollution and water quality have degraded spawning areas for over a century.

Throughout the 1970's, the influence of the strong year classes from earlier in the decade had waned and the stock size and harvest declined. Fishermen prompted Congress to amend the Anadromous Fish Conservation Act so that funding was made available to study the striped bass decline and provide the necessary information to enact a management plan. Known as the Striped Bass Study, information collected was incorporated into the striped bass fishery management plan developed by the ASMFC. In 1981, the ASMFC adopted the *Interstate Fisheries Management Plan for the Striped Bass of the Atlantic Coast from Maine to North Carolina* (FMP). The ASMFC adopted the plan with the objective of "maintaining a spawning stock size that would restore abundance of striped bass available for harvest to provide for continued economic and social benefits." In 1985, the ASMFC passed Amendment 3 with the intention of dramatically reducing fishing mortality on the strong 1982 year class to ensure that at least 95% of that cohort had the opportunity to reproduce at least one time. This was achieved through a combination of total closures, minimum size limits, and elimination of bycatch allowances in the commercial fishery. At the same time, Congress passed the Atlantic Striped

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<sup>3</sup> Atlantic States Marine Fisheries Commission. 2011. Striped Bass Stock Assessment Update 2001.

<sup>4</sup> Atlantic States Marine Fisheries Commission. 1989. Amendment 4 to the Atlantic Striped Bass Fishery Management Plan.

<sup>5</sup> U.S. Fish and Wildlife Agency, Chesapeake Bay Office. Striped Bass Fact Sheet.

Bass Conservation Act of 1984 which provided the ASMFC and coordinating states the necessary tools to more efficiently manage and conserve the striped bass resource. According to the U.S. Fish and Wildlife Service, “These federal actions were possible because of the cooperation of recreational and commercial fishermen and the advocacy and influence of members of Congress.”

The result of this action was measured in marked increases in recruitment and female spawning stock biomass. In five years from the passage of Amendment 3, striped bass female spawning stock biomass had increased over 300% and recruitment was at a 15 year high. In 1989, the ASMFC adopted Amendment 4 in response to consistently meeting the rebuilding objectives enacted in Amendment 3. This marked a change in managing striped bass as the ASMFC attempted to transition from a focus on rebuilding to a focus on “conserving and preserving.”<sup>6</sup> This transition also marked the acknowledgement by the ASMFC that it was time for fishermen to begin enjoying the benefits of their efforts and sacrifices to rebuild striped bass and efforts were made to slowing increase harvest.

Striped bass, an iconic, long-lived species that is critically dependent upon environmental conditions for successful reproduction was rebuilt from extremely low levels of abundance to a fully rebuilt state in the absence of more modern management measures such as rebuilding timeframes, annual catch limits or accountability measures. Granted, significant sacrifices were made by fishermen including complete closures but unlike the federal fisheries management system, fishermen that pursue striped bass were afforded reasonable access to the stock once rebuilding goals were achieved.

#### Socioeconomic Importance of Striped Bass

I’ve the honor of being on the tournament committee of the Long Beach Island Fishing Classic,<sup>7</sup> or the Derby as many Jersey Shore old-timers still call it. First started in 1954, and now one of the East Coast’s longest-running fishing contests, the Long Beach Island Fishing Derby is an annual surf fishing tournament – beach only – which was originally started to extend the summer season on Long Beach Island in New Jersey, Congressman Runyan’s district, to help boost tourism in the off-season, which it has certainly accomplished, as anglers come from as far as North Jersey, New York, Pennsylvania and Delaware to participate, often staying in area hotels or renting houses on LBI for the 8-week period.

In its heyday in the mid 1960’s, nearly 3,000 anglers would sign up for the “Striped Bass Derby” providing an economic boon to local businesses along this stretch of shore. In 1964 alone, 2697 anglers registered 2232 striped bass during the eight-week contest, whereas 20 years later in 1984 the number of contestants fell to 903 anglers who caught just 108 striped bass. As striped bass numbers dwindled to devastatingly low numbers in the 80’s, so too did the fishing participation, which in turn impacted the coastal economies as well.

Striped bass has increasingly become a more important recreational fish. With the declaration of a restored status, harvest increased from 12.6 million pounds in 1995 to a record of 29.3 million pounds in 2006. Where 551 participants caught just 23 striped bass in the 1991 LBI Striper

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<sup>6</sup> Atlantic States Marine Fisheries Commission. 1989. Amendment 3 to the Striped Bass Fishery Management Plan.

<sup>7</sup> <http://lbift.com/>

Derby – 20 years later, tournament participant numbers were close to 1,000 again with striped bass catches – with a minimum size of 34 inches, a full 6 inches above the state legal limit – once again have significantly improved. This example represents the tremendous economic driver that the recreational striped bass can have on coastal economies. Every state under the striped bass management unit benefits from the fishery’s recovery. As the coastal migratory stock of striped bass moves south along the Atlantic Coast from Cape Cod in September to the Outer Banks of North Carolina in November, an economic uptick in the coastal communities in turn follows this migration fueled by fishermen following the annual run.

The socioeconomic important of striped bass is not limited to the defined management area of Maine through North Carolina along the Atlantic coast. West coast settlers in the late 1800’s would benefit from the species when the United States Fish Commission – a precursor to U.S. Fish & Wildlife – pioneered American fish stocking efforts. Atlantic striped bass were transported in milk cans and wooden barrels by train from the Navesink River in New Jersey all the way across to the San Francisco Bay. Today, a thriving and economically important striped bass fishery has grown from these couple hundred striped bass shipped west over 100 years ago. In addition, the hardy nature of striped bass has allowed it to be successfully introduced to many lakes and streams throughout the US.

#### Comments on HR 3906

HR3906 would allow fishing for striped bass in the Block Island Sound transit zone. The zone is defined in the bill and would consist of approximately 155 square miles of ocean. The current demarcation of the Exclusive Economic Zone (EEZ) produces a gap where federal waters exist between the eastern tip of Long Island, Connecticut, the coast line of Rhode Island and Block Island. Current federal regulations prohibit the possession of striped bass in federal waters. Concerns have been raised in the past about striped bass regulations in federal waters and how it prevents fishermen from Montauk, for example, steaming to Block Island to legally fish for striped bass in Rhode Island state waters and then returning back to port with striped bass onboard their vessels. An exemption was ratified for this area in 2005 as contained in CFR Title 50 part 697.7(b)(3) which allows the transport of non-EEZ caught striped bass in the permitted area.

HR3906, if passed, would mandate that the Secretary shall not prohibit fishing for Atlantic Striped Bass in the Block Island Sound transit zone thereby allowing directed fishing for striped bass in a 155 square mile area of the EEZ. RFA has several concerns on the intent of this bill.

To our knowledge, no analysis has been conducted to determine the biological, conservation or economic impacts that would occur if the Block Island Sound transit zone were opened to striped bass fishing. Amendment 4 of the Striped Bass FMP states that State(s) that claim a need for discrete management areas should conduct a feasibility study providing clear and convincing evidence that the fishing mortality rate experienced by striped bass in that area will not exceed the target levels outlined in the fishery management plan.<sup>8</sup> Moreover, the state should provide sufficient information on the stock composition on the striped bass that will be harvested from the area. Considering that this analysis has not been conducted and that there are many

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<sup>8</sup> Atlantic States Marine Fisheries Commission. 1989. Fisheries Management Report # 15: Supplement to the Striped Bass FMP Amendment 4

unknowns associated with such action that potentially stand to impact the current management of striped bass, RFA does not support HR3906 as written.

Moreover, HR 3906, if passed, would disrupt the uniform harvest prohibition in the EEZ from Maine to North Carolina, thereby making a relatively small exemption for a small fraction of users. The Block Island Sound transit zone is not the only region within the striped bass management unit where stakeholders have expressed a desire to open portions of the EEZ for directed striped bass harvest. These efforts have been denied by federal agencies due to the potential impacts on the overall stock and the challenges associated with enforcing small exempted areas. HR3096 would initiate a move towards a patch-work management of striped bass in federal waters. RFA and the Federation do not support this haphazard management approach.

RFA and the Federation are concerned that the language of HR 3906 does not limit fishing for striped bass in the EEZ transit zone to specific gear types or sectors. Without these limitations, it is possible that high-volume gear types such as gill net and otter trawls could be utilized in the area if the bill were to pass. Executive Order 13449 issued in 2007 designates Atlantic striped bass as a gamefish, along with red drum, in federal waters thereby reserving the stock for recreational benefit only. However, Executive Orders are whimsical in nature and can be changed without debate unlike a piece of legislation which would receive considerable opportunities for debate as it moves through the House and Senate. It is plausible that passage of HR3906 would spark a strong political campaign to rescind or amend EO 13449 to allow directed commercial fishing for striped bass in the Block Island Sound transit zone. RFA and the Federation believe passing HR3906 as written, does not include language that would prevent the commercial take of striped bass in the transit zone or the use of high-volume gear such as gill nets, seines or otter trawls. The absence of this language in HR3906 ultimately puts the striped bass fishery in the region at risk.

In addition, RFA and the Federation must point out the positive role that the recreational and commercial harvest prohibition of striped bass in the EEZ has had on the management success of the stock. Research has concluded that the fully recruited coastal stock, which is composed of 90% female fish, utilizes the deeper coastal waters off of New Jersey south to North Carolina as overwinter grounds. A significant component of the female spawning biomass utilizes the EEZ during a large portion of the year thereby classifying it as essential fish habitat. The absence of directed fishing for striped bass during this period and in this area without question has resulted in a positive influence on the striped bass spawning potential. Previous analysis conducted by the National Marine Fisheries Service in response to being petitioned by the ASMFC to lift the harvest prohibition indicated that directed fishing for striped bass in the EEZ would significantly increase fishing mortality to nearly double the fishing mortality target established under Amendment 6 of the striped bass fishery management plan.<sup>9</sup> Moreover, considering most striped bass that overwinter in the EEZ are female and that research finds that each female striped bass produces roughly 1 million eggs per 10 pounds of body weight, even limited take of these large female fish in the EEZ could have a measurable impact on recruitment. As expressed above, there are emerging challenges with striped bass management and it is unlikely that allowing

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<sup>9</sup> Proceedings of the Atlantic States Marine Fisheries Commission, Atlantic Striped Bass Management Board. August 18, 2005. Page 28

directed fishing for striped bass in even a small portion of the EEZ would be beneficial at this time.

#### Comments on HR6096

RFA and the Federation support HR6096 as written. The bill reauthorizes the Anadromous Fish Conservation Act Reauthorization, the Atlantic Striped Bass Conservation Act Reauthorization, the Interjurisdictional Fisheries Act Reauthorization and the Northwest Atlantic Fisheries Convention Act of 1995 Reauthorization.

Specific to the Atlantic Striped Bass Conservation Act Reauthorization, RFA has indicated previously that challenges remain with the management of striped bass despite the stock being fully rebuilt for over 15 years. Addressing these challenges often demands the investment of research to provide fishery managers the information necessary to recommend and promulgate solutions. Section 3 (b) of HR6096 would initiate a comprehensive analysis of striped bass feeding habitats in the New York Bight. Information from this study may help managers address concerns about constriction of the stock in the northern range and possibly elevated fishing mortality on older age classes. Locations for important feeding grounds maybe identified prompting additional protections from bycatch.

In addition, the prevalence of disease in the striped bass reared in the Chesapeake Bay region is believed to be linked to chronic malnutrition in adult and sub-adult striped bass. Considering the Chesapeake Bay stock accounts for the majority of coastal migratory striped bass, information gleaned on feeding habits in the New York bight may offer more insight into addressing this problem. A benchmark stock assessment for striped bass is scheduled for 2013 and it is the hope of the RFA and Federation that information from this study can be compiled in a timely manner and incorporated into the 2013 assessment.

#### Conclusion

In closing, I would like to express my appreciation for the opportunity to discuss the importance of the Atlantic striped bass and explain how HR3906 and HR6096 could impact future management and fishermen's access to this fishery. Considering the great history and importance of the striped bass, it has been an honor sharing my perspectives on the fishery. The RFA and the Federation would be happy to provide additional information if requested and work with members of the Committee and sponsors of the legislation if revisions to the bills are considered.