



Testimony

of

James A. Donofrio

Committee on Natural Resources  
Subcommittee on Insular Affairs, Oceans and Wildlife  
U.S. House of Representatives

April 22, 2010

Madam Chairwoman and Members of the Committee, my name is Jim Donofrio, Executive Director of the Recreational Fishing Alliance (RFA). 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.

I appreciate the opportunity to appear before you today to discuss the application of catch shares or other limited access privilege programs in the recreational fishing sector. Today I have the distinct privilege of representing the Marine Retailers Association of America (MRAA), Fishing Rights Alliance, United Boatmen, United Boatmen of New York, Maryland Saltwater Sportsmen's Association (MSSA), National Association of Charterboat Operators (NACO), Southern Kingfish Association (SKA), New York Sportfishing Federation, and New York Fishing Tackle Trade Association. These groups represent the interests of millions of saltwater anglers and tens of thousands of jobs in the saltwater fishing industry from Maine to Alaska. All of the aforementioned groups, including the RFA, are adamantly opposed to any catch share program in the recreational fishing sector.

The RFA operates under the premise that recreational fishing is good for the Nation. It is a traditional activity which brings families and friends together, enhances the quality of life for millions of Americans, provides tremendous economic benefits for the country in terms of jobs and tax revenues, and has a low impact on our marine resources. In fact, NOAA estimates the total recreational saltwater economic value exceeds \$30 billion annually. Based on the profound benefits recreational saltwater fishing provides to our Nation, RFA believes proper management is absolutely necessary.

Recreational fishermen were among our Nation's first conservationists and continue to be at the forefront of pushing for appropriate marine conservation measures because our businesses

and our quality of life depend on healthy marine fisheries. Those who experience all that saltwater fishing has to offer often develop a sense of responsibility and desire to pass on the experience to younger generations and want to do their part to ensure that there are healthy resources for future generations to enjoy. This strong conservation ethic has played a significant role in the tremendous rebuilding progress made in many important recreational fisheries since the passage of the Sustainable Fisheries Act (SFA) in 1996 and amendments to the Magnuson Stevens Fishery Conservation and Management Act (MAGNUSON) in 2007. Currently, 81% of our nation's fisheries are not overfished and 76% are not experiencing overfishing. These statistics represent significant progress and a cooperative effort between fishermen and regulators.

Unfortunately, many in the recreational fishing public and fishing related businesses are not realizing the benefits of rebuilding and maintaining fish stocks at sustainable levels and are being denied accesses to some of the most important recreational fisheries. This adverse situation illustrates that the rationale offered to fishermen by NOAA that short-time pain in way of reduced access will result in long-term benefits when stocks are rebuilt is invalid. We now know that the absolute size of a fish stock is not the most vital component necessary to support a healthy recreational fishery. What has emerged as the most vital component in the post SFA and 2007 MAGNUSON reauthorization regime is access to fish stocks. The lack of reasonable access at times of high abundance is a cause for the general mistrust of NOAA and the general management framework of MAGNUSON. RFA believes this approach defies the very spirit and intent of domestic fisheries management when Magnuson was penned by Congress in 1976. Of additional concern is that this dysfunctional management approach threatens to compromise recreational anglers' willingness to be active players in future rebuilding efforts.

RFA has identified three major challenges facing our sport and industry; 1) stability in the recreational fishing industry, 2) preserving traditional access and participation, and 3) inadequate monitoring and/or assessment of recreational fisheries. Accountability measures and annual catch limits mandated by the MAGNUSON 2007 reauthorization result in mid-season closures that disrupt fishing activities, cause charter boats to cancel trips and leave tackle shops straddled with unsold inventory. These management practices create a very unstable business environment. In addition, anglers are dealing with some of the most restrictive regulations in fisheries that are either rebuilt or at historic high levels of abundance. Many of the 2007 MAGNUSON reauthorization amendments, including accountability measures and annual catch limits, demand a vastly improved recreational data collection system which currently does not exist. We believe that addressing these problems through minor changes to MAGNUSON is necessary to ensure a vibrant future for the industry. We only this point because NOAA and the Obama Administration seem to be moving forward with catch shares in a panicked state.

NOAA and the Obama Administration have diverted million of dollars and resources from cooperative research programs towards the implementation of catch shares. They claim that such a management tool will solve all the problems currently being experienced in both the commercial and recreational fisheries and will promote more sustainable and profitable fisheries. A magic bullet. RFA must respectfully disagree with this overly optimistic assessment of catch shares. The results from fisheries where catch share programs were implemented should spark serious trepidation for commercial and recreational fishermen. The facts certainly do not support

the lofty and unfounded status the administration and NOAA have afforded to catch shares. The underlying objective of any catch shares or limited access privilege program is to reduce capacity or the number of participants in a given fishery. The application of this objective in the recreational sector would completely destroy the open access structure of the fishery and collapse the influx of new participants that are necessary for a vibrant recreational fishing industry. Furthermore, catch shares would substantially affect fishing related tourism in coastal states.

There is no question that the recreational sector can be managed better. Based on the current management, it is understandable why the recreational fishing community is apprehensive towards the implementation of a catch shares programs administered by NOAA. It is apparent through NOAA's actions that the overall health of the recreational fishing industry is not a priority for the agency when enforcing MAGNUSON mandates and crafting management policies. Most glaring, is the failure to fully implement important sections of MAGNUSON that would improve recreational data collection programs. These improvements were deemed necessary by the fishing community and the National Research Council. Yet, it has been 3 years since the reauthorization and NOAA has done very little to make the improvements. During that time however, NOAA have moved forward with implementing management tools that demand an improved data collection system. This illogical approach will result in significant damages to the recreational sector. If NOAA cannot be trusted to implement MAGNUSON in a fair and balance manner, how can the recreational fishing community be expected to trust NOAA with a catch shares programs.

NOAA has indicated that no fishery or sector is obligated to adopt catch shares and that the final decision will be left up to the consideration of the regional fishery management councils. However, the RFA finds no comfort in this stipulation for several reasons. First, Dr. Lubchenco, NOAA Administrator, served on the Environmental Defense Fund board of directors. Environmental Defense is probably one of the most vocal proponents of catch shares. There are numerous other political appointed personnel within the upper administration of NOAA that worked with pro-catch share environmental organizations prior to their employment with NOAA. Second, NOAA has established a precedence of superseding the regional councils on matters of fisheries management even when conservation is not the primary concern. Third, the 2011 NOAA budget included a massive increase in funding for the development of catch share programs. And finally, in 2009, there were 6 appointments made to the regional councils where the candidates were affiliate with non-fishing interest groups that support the use of catch shares. The fact that these candidates were not supported by the commercial and recreational fishing communities and that they all had ties to environmental organizations pushing catch shares leads one to believe that they were purposefully appointed to help advance a pro-catch shares agenda. Many of the people taken off the councils were incumbents doing a fine job representing the fishing interests. It is clear that NOAA has a political agenda with this Administration like none seen before. This is a very troubling situation and one that does not provide the recreational fishing community any confidence that their collective voice will be given its due consideration.

RFA firmly believes that all anglers are entitled equal right to access recreational fisheries. The very definition of catch shares contained in Magnuson includes the use of limited

access privilege programs which are fundamentally incompatible with the traditional open access of recreational fisheries. Open access has already been identified as a primary factor that sustains the overall health of the recreational fishing industry. There has been a precedence set in the commercial sector where catch share programs have been implemented, where a share is based on past activity in the fishery. In many recreational fisheries it is impossible to equally divide an annual recreational harvest limit among its participants because there are many more anglers than numbers of fish. In red snapper, each angler would have to be allocated less than one fish. Therefore, participation must be reduced in order for a recreational catch share to be successful. Clearly NOAA should be aware of this limitation.

Some groups have suggested limiting the number of recreational anglers to those individuals with the financial resources to pay for access. RFA hopes members of the Committee share our disgust with this motion of selecting recreational participation based on the criteria of money. RFA believes this approach would set a profound precedence forcing anglers to pay for fishing access. As market factors drive the cost for each fish, the recreational fishery would become cost prohibitive for many anglers to engage the fishery. The result would be a fishery reserved exclusively for the wealthy and those financially privileged enough to afford to fish.

RFA finds this approach to be in complete violation of the Public Trust Doctrine established when our nation was founded to protect its citizens from the ownership of natural resources. The public trust doctrine states that the public rights are superior to private claims and private rights. The idea of providing the exclusive rights of free swimming fish to a selected few is in complete contradiction to this law. The US Supreme Court ruled in 1842 that wildlife resources are owned by no one and are to be held in trust by government for the benefit of present and future generations. This interpretation is the very basis of the traditional, open-access currently seen in US recreational saltwater fisheries.

RFA believes such an approach would violate the Magnuson Stevens Fishery Conservation and Management Act (Sec. 301 (a)(4) and (5) that state “If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen.” . Section (5) continues to state that “no such measure shall have economic allocation as its sole purpose.” RFA contends that catch shares and limited access privilege programs based on market value would not be fair and equitable to all fishermen and that by reserving fish for those who can pay the most, violates Magnuson. RFA believes everyone should have the right to fish, not just those with the financial standing to buy their right.

RFA believes it to be poor public policy to allocate who can access the marine resources based on their economic situation. It is clear that under such an approach, certain demographics and communities would be disadvantaged and adversely affected. This approach would make it burdensome for new entrants into the fishery. Without new fishermen coming into the fishery, the very progression of new participants that tackle shops and other fishing related businesses depend upon would collapse. This also goes against the multimillion dollar marketing campaigns funded by federal excise taxes on fishing products to attract new fishermen. Furthermore, as illustrated in the commercial red snapper fishery where price per pound

increased 15% in the first year of the IFQ system, market demands in a recreational IFQ/catch share program would accelerate attrition as costs rise. Such a proposal would quickly lead to a small scale, boutique recreational fishery only accessible by elite fishermen. RFA envisions and hopes the future of recreational fishing is far different from this potential view.

It appears that in rolling out their plan to implement catch shares in US fisheries, the Obama Administration and NOAA have failed to recognize some very basic characteristics of the recreational fishing community. Each angler is driven by different motivations when engaging the fisheries and the dynamics of the fishing community vary greatly by region and time. For example, some recreational fisheries are almost entirely catch and release while in other fisheries harvest is the primary motivation. Tackle shops and the fore hire sector often speak of the importance of anglers that decide to engage the fishery on impulse. These impulse fishermen can account for a substantial part of a fishing business's annual income and yet these fishermen may only fish one or two times a year or every other year. Failure to recognize these basic characteristics of the recreational fishery indicate that the effort to advance catch shares in the recreational sector is agenda driven as opposed to being driven by legitimate concern to address the real and pressing problems of the recreational sector.

Finally and with regard to the implementation of catch shares in the commercial fisheries, the RFA does not intend to take a position on their use in this sector. However, RFA is very much concerned about the collateral damage to recreational sector when commercial catch shares programs are implemented. The definition of catch shares and limited access privileges included in MAGNUSON describe catch shares as an amount of fish to be harvested based on the total allowable catch of the fishery that may be held for the exclusive use by the permit holder. The consequence of granting exclusive rights to commercial fishermen under the new annual catch limit regime of the 2007 MAGNUSON reauthorization would result in a permanent loss of potential harvest for the recreational sector. In a sense, commercial catch shares would memorialize allocations that are not necessarily consistent with the current or traditional magnitude of the corresponding recreational component in that fishery. RFA has challenged the commercial/recreational allocations in many important recreational fisheries such as New England groundfish, summer flounder, tilefish and some species in the snapper/grouper complex. For example, commercial fishermen of the summer flounder fishery were allocated 60% of the annual landing limit based on sector specific landings performance during a subjective timeframe. The timeframe was selected by the Mid Atlantic Fishery Management Council. At the time, the council had more commercial members and therefore voted for a timeframe that favored the commercial sector. Despite historical and current records that support a more equitable recreational allocation, recreational fishermen are denied their traditional portion of the summer flounder fishery. The RFA and United Boatmen challenged this allocation in federal court and the Mid-Atlantic council has not properly disposed of the issue. The allocation of every single fishery with a commercial and recreational component needs to be considered before any commercial catch share program is implemented.

In conclusion, the recreational fishing community is dealing with some of the most adverse management in recreational fishing history which ironically comes at a time when many fish stocks are rebuilt or well on their way to being rebuilt. Anglers have been restricted to unprecedented levels and even completely excluded from important fisheries. It is unfortunate

that the recreational fishing community is in a depressed state due to broken promises made by NOAA of benefits to the recreational fishing community when stocks reach rebuilding targets. NOAA continues to fail to recognize that access to the marine fisheries is one of the most important problems the recreational fishing community faces. Heavy handed management and inconsistent implementation of the 2007 MAGNUSON reauthorization has caused extreme mistrust of NOAA. NOAA cannot be trusted to administer or oversee a catch shares program in the recreational fisheries. The use of catch shares in the recreational sector would destroy the traditional open access structure and collapse the entrance of new participants in the fishery.

I thank you Madam Chair for the opportunity to provide the position of the RFA and the above mentioned groups before this committee. We all agree that there are significant problems facing our industry but we firmly believe that catch shares in the recreational sector are not the answer. I will be happy to answer any questions.