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Testimony on “The President’ New National Ocean Policy”  
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I am here today with a cautionary tale from California. My name is Marc Gorelnik. I am a director of the all-volunteer, 10,000 member strong Coastside Fishing Club and a lifelong recreational angler. I grew up fishing from the ocean piers of Southern California and now fish from my own trailer boat in the waters of Central and Northern California. For myself and many of the other millions of saltwater anglers in the United States, going fishing is more than a recreational pastime. It is a tradition, a connection to the generations before us, and a tradition that we pass to the generations that follow us. It is also a recreational activity that binds us tightly to the health of the environment.

What makes our ocean activity different from that of some other witnesses here is that the quality of our experience depends on the health and vitality of the resource. To us, the ocean isn't merely a surface to transit from port to port or a body of water that lies between us and minerals to be extracted.

On this basis, a reasonable observer might believe that California recreational anglers are over the moon about the President's National Ocean Policy initiative. But we Californians are living the nightmare of an analogous program, the Marine Life Protection Act, also known as the “MLPA,” which included its own marine spatial planning initiative. And it is our experience in California that brings me to the cautionary tale of recreational anglers.

The debacle of the MLPA in California should not be visited on the nation. National Ocean Policy initiative should not be directed to decreasing

recreational freedoms on our nation's ocean waters. Rather, the policy should work to improve the quality and scope of recreational experiences for Americans.

There may be times when sound fishery management, guided by credible scientific data, instructs that angling must be curtailed in order to restore a species or habitat. Recreational anglers would not, and have not, chafed at such restrictions because they are generally narrowly tailored, temporary in duration, and directed toward increasing future recreational opportunities. But that's not what happened in California, where the MLPA usurped the role of fishery management.

The MLPA eliminates or severely restricts recreational and commercial fishing activities without regard to species management. Closures are self-justifying. While posited as a science driven process, it was far more political. After all, private foundations funded this pseudo-public process, and he who pays the piper names the tune. It was a biased process and recreational anglers, who devoted thousands of hours in stakeholder and other meetings, served merely as window dressing. In the end, proposals supported by environmental NGOs always triumphed over proposals by anglers. This is true even when the NGO-favored proposal offered no conservation benefit and higher socio-economic costs.

We see a similar path with National Ocean Policy. Ecosystem based management is laudable from a lay or political perspective, but it is not a well-defined scientific standard unlike management standards in Magnuson-Stevens. In the end, it is a political football. In California, we saw "ecosystem protection" as an all-purpose, one size fits all, justification for any path sought by the environmental NGOs. Even in the absence of any scientific justification, the so-called "precautionary principle" was invoked as a lazy device to deprive recreational anglers from locations that had been sustainably fished for generations.

Here is some background on the MLPA. Shortly before the MLPA became California law, the federal government amended the Magnuson-Stevens

Act (creating the Sustainable Fisheries Act of 1996. Federal policy changed from one of expanding US fisheries while excluding foreign fisheries from US waters. Instead of maximizing yield, the policy changed to maximum ***sustainable*** yield – a huge difference. The focus and weight of law was now on sustainability. And with that, the Pacific Fisheries Management Council really did change the way in which it managed the fishery off California's coast.

The Council declared that several groundfish species were overfished, and undertook rebuilding plans based on the biology of the fish and the needs of the fishing community. And with these rebuilding plans in place, these depleted species became the controlling factor for the majority of the species that have always remained healthy. By-catch of these constraining fishes shut down otherwise healthy fisheries when rebuilding take limits were attained.

Unlike other coastal waters around the world, California's fishery is healthy and rebuilding. Then what is the role of the later-enacted MLPA? What role does its marine protected areas play in supporting sustainability or improving the rebuilding rate of critical species? For those fisheries that are healthy, and successfully managed to maximum sustainable yield, there is no need to close fishing, as the same number of fish will ultimately be allowed to be taken from areas outside of the MPAs – they will just be harder and more expensive to get. So with no net reduction in the amount of fish taken, there will be little if any net gain as a result of an MPA closure. And if you are a recreational fisher, in some cases that increase in difficulty and expense will result in forgone opportunity and a slower economic engine within the recreational sector.

This concept of no net gain presents an interesting paradox. The annual catch limits are set by the PFMC based on the best available science regarding the status and biology of the stocks. The PFMC is required by law to set levels that do not allow overfishing to occur – i.e. the level must be sustainable; and to rebuild those stocks that are overfished in as fast a time as practicable. But once those levels are set, the fishermen are

largely free to fish to those limits. Closing small areas will not have a significant effect on the total number of fish extracted – they will just shift where they are caught and how difficult – expensive – it will be to catch them. Controlling the level of fishing is the responsibility of federal and state fishery management organizations; and, rightly so, not the responsibility of the MLPA. Closing areas to fishing within the structure of the MLPA will not impact the level of extraction, and thus not affect the level of sustainability of the vast majority of our fish stocks – which are healthy.

But then what about those handful of groundfish species that are overfished and are rebuilding? The Big Old Fat Female (“BOFF”) theory and the size and spacing requirements of the MPAs are relevant to that discussion. But the fact is that the preferred habitat for these few critical fish are largely outside of state waters, and thus the MLPA is working on the margins of the habitat for them. Compare that with the thousands of square miles of preferred habitat already closed by the federal fishery managers in what are known as Rockfish Conservation Areas, and Cowcod Conservation Areas. These areas are basically closed to both recreational and commercial bottom fishing, and are critical elements of the rebuilding strategy of the PFMC and the NMFS.

While changes to the boundaries are made in response to improved understanding of the stocks, the size of these closed areas makes the MLPA closures relatively insignificant to the rebuilding rate. So while the concept has relevance to the rebuilding discussion, the potential magnitude of the impact of the MLPA’s BOFF and the associated size and spacing is likely to be of no significance to the rebuilding of the few overfished stocks off California.

And just like the healthy stocks, the concept of no net reduction in take is still going to control the rebuilding rate of these fish. The PFMC sets the allowed level of take for these fish too – be it unintended by-catch, or minimal directed harvest based on the approved rebuilding plan strategy.

So as long as that level of take occurs, the rebuilding rate will not significantly change.

The MPAs established under California's MLPA are simply not relevant to the concept of sustainable fishing: they are not impairing sustainability, but they are not enhancing it either – decent science based fishery management has simply overtaken the MLPA, and made it a relic of the past. But it is affecting the way recreational fishermen pursue their passion. It is changing where we fish, and the expenses we incur in pursuit of those fish. The MLPA impacts the infrastructure that we depend on as we attempt to catch a fish.

Our charter boat industry, the bait shops, marine fueling operations, etc. are all affected by the resulting increases in operating costs and forgone opportunity. They are struggling to stay in business, and many are not making it. The most obvious operating cost impacts result from travel distances increasing as a result of closures near the ports, resulting in added fuel costs. And in some cases it is possible that the added distances could prove to be a safety hazard should boats try to return to port in front of approaching storms. The economic impact is real: Morro Bay has already lost most of its sportfishing fleet, and tourism is down dramatically. The same is true in Bodega, and other small coastal communities.

Fishing is a mainstay of tourism in our coastal communities and the MLPA doesn't have the money to encourage the ecotourism used to justify the closures. To be sure, there will be offsetting economic gains to coastal communities, when or if the economy switches from fishing to ecotourism. But I for one prefer a working marina to tee shirt and souvenir shops.

During the implementation phase, 10s of millions of dollars have been spent – mostly from private funding sources, but significant amounts of taxpayer money as well. However the huge cost issue with the MLPA will be the ongoing enforcement and monitoring expenses. Estimates from the California Department of Fish and Game project additional annual

expenses from 10 to 50 million dollars a year – money they don't have, and won't get. The Department has repeatedly said they don't have the money to do the job, and will likely not be able to effectively enforce the regulations. Which raises the very real possibility that these MPAs could become viable target areas for poachers – which would be doubly bad. First because that would defeat the biological gains we expect to see inside the MPAs, but also because these catches would be un-reported and thus detract from our ability to accurately monitor actual take levels.

The implications relative to the national movement for Coastal and Marine Spatial Planning are significant. If the California MLPA example is followed on a national basis, fishermen have good reason to be concerned. Already we are seeing that getting fishermen and fishery science a seat at the planning table is an uphill battle. Given all the other competing users and preservationists, who do have strong presence on the planning councils and oversight bodies, our ability to influence the outcome is doubtful. Our ability to have access to a healthy fishery is in real jeopardy.

While repeatedly touted as “the most open and transparent process in state government,” this was instead a brave new world of ruthless NGO-driven regulations. Indeed, the “open and transparent” MLPA organization refused to respond to a public records request on grounds that it wasn't a state body. It took a lawsuit and court order to force open the MLPA records.

The flawed MLPA process in California is relevant to the President's Ocean Policy Initiative because we see the same actors on stage. The same NGOs with the same objectives and principles, such as self-justifying recreational access closures. Like the MLPA, we see a complete absence of representation of American anglers in any meaningful way, and certainly not in balance with those who drove the MLPA in California.

With the bitter aftertaste of the railroad job anglers received in California, and seeing many of the same environmental NGOs striving for a hand on the steering wheel, you can understand why anglers may be apprehensive about the National Ocean Policy. We fear that it may be California's MLPA,

writ large. We fear the same lost opportunities, with greater concentration in fewer areas; more closings of landings and lost jobs; more high-minded rhetoric.

The President's National Ocean Policy does not need to go down the same road as California's MLPA. As I noted at the beginning of my testimony, anglers – unlike most other ocean users that may be impacted by the National Ocean Policy – need and desire a healthy ecosystem in order to engage in our pursuits. Because we generate billions of dollars of economic activity, there are real jobs and businesses that derivatively need and desire a healthy and vibrant ocean ecosystem. We would like to work with the Administration to this end, but our experience in California leaves us wary.

Why don't recreational anglers, and there are more than 12 million of us on the oceans, have a hand on the tiller? Will our participation be mere window dressing as it was in California? It seems that that's the way we're headed. A year or two ago, a National Ocean Policy task force met publically in San Francisco. The recreational angling community was not included except as spectators to a series of speakers praising California's MLPA process. This provides little room for optimism.

In closing, I would urge the Administration to remember that recreational ocean angling is woven into the fabric of our nation's coastal communities and tens of millions of voting age anglers and their families. It brings billions of dollars of economic benefit to coastal economies. And our nation's anglers already deal with vast closures imposed by fisheries managers. The notion that further restrictions, unrelated to fishery management and largely politically driven, may be visited on anglers is unacceptable. In California, we were told not to worry about the process as it would be fair to all. Well, it wasn't. And we do not want to see unnecessary, feel-good closures imposed throughout our nation's coastal waters. Thank you for your time.