Testimony of Jay E. Stinson
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Regarding
The Reauthorization of the Magnuson-Stevens Conservation and Management Act

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Thank you, Mr. Chairman and members of the Subcommittee, for the invitation to testify today on the Reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act.

I am Jay Stinson, President of Alaska Draggers Association (ADA), a trade association representing vessel owners, captains and crew members of the Central Gulf of Alaska shore based trawl industry. Last year's membership included 32 of the approximately 40 vessels that make up this regional fleet.

Because of the Magnuson-Stevens Act and the management policies developed by the North Pacific Fisheries Management Council and the Alaska Board of Fish, Kodiak enjoys the benefit of many well managed and healthy fisheries. Our fish stocks are conservatively managed and allowing for normal environmental fluctuations and cyclic population dynamics are some of the healthiest and most viable native fish stocks in the world. Of the 63 species of Groundfish managed under federal Fisheries Management Plans in Alaska, none are listed as over fished and none of their populations are threatened. Only three species of crab have been listed as "overfished" although most scientists attribute unfavorable environmental conditions as the likely cause of low stock levels for crab species in the Bering Sea and Gulf of Alaska. Our state managed salmon stocks are regarded as the most viable and healthy natural populations in the world.

According to the 2004 Coast Pilot, Alaska has an ocean coastline of 5,770 nautical miles, slightly less than the combined total of the other 49 states. The surprising figure though, is the 29,500 miles of tidal shoreline that surround the state. Paradoxically, Alaska's resident population of less than 600,000 is approximately only 2 tenths of one percent of the total U. S. population. More than one half of Alaska's population lives in the greater Anchorage area.

The social and economic importance of fisheries to Alaska can not be over-emphasized. The commercial fishing industry is the largest private employment sector in the state with an ex-vessel value in excess of one billion dollars. Alaska fisheries harvest would rank 12 th in the world if Alaska were an independent country. Commercial fishing is the life-blood of the coastal communities of Alaska. Tax revenues from fisheries resources fund schools, local government and essential services for most of our coastal communities.

Alaska 's challenges and issues regarding fisheries management are different than those regarding much of the rest of the nation. Urban sprawl, pollution and contaminants, habitat degradation, depleted and overfished of stocks, and just plain too many people impacting marine habitat is epidemic in many coastal regions of the United States. Those issues are not as immediately critical to Alaska. What is important for this region is ending the race for fish by creating equitable right-based management systems for North Pacific fisheries that have not been rationalized, maintaining the current health, viability and sustainability of our marine resources, conserving habitat and nurturing the economic vitality of our communities that rely on those resources. We need to develop and refine a better and more comprehensive understanding of the natural environmental and ecological systems of the North Pacific. Policy that allows access to the resource, maintains social, economic and cultural stability is vital to the people that have historically relied on the bounty of Alaska's marine environment.

Ecosystem Based Management:

Over the course of the last four years, my vessel has been under contract with the University of Alaska School of Fisheries and Ocean Science. Working under the direction of Dr. Robert Foy, we have logged over 6,000 miles of hydroacoustic transects around Kodiak Island. Using hydroacoustic equipment, plankton nets, tucker trawls, a midwater trawl, surface temperature and salinity recorders, and CTD recorders, we assessed a significant portion of the near shore and inner bay habitat areas of Kodiak Island.

This type of work is fundamental to the actual development of "ecosystem based" management concepts. While everyone agrees that ecosystem-base management is a preferable methodology and mindset for fisheries management, the concept is still in the early stages and large challenges need to be addressed before it can be a viable management system. As of yet, we do not have the data or methodologies to integrate physical oceanography, meteorology, habitat concerns, energetics, trophic efficiencies, relative survivalship of competing species, essential fish habitat, life history bottlenecks, and, socio-

economic management concerns into a single comprehensive management model. The complexity and breadth of these ecological relationships is overwhelming. The range of variables is daunting. While all of these concerns need to be considered in a prudent, conservative and sustainable approach to fisheries management, our current ability to use this as a discrete management tool is less than sufficient to meet legal and regulatory standards.

Whether we choose to promote a “bottom-up”, “top-down” or a “middle-out” approach to multi-species or ecosystem based management plans, the information base and associated expertise will need to be increased substantially. In addition to the provision of funding for and carrying out basic data collection for ecosystem-based management, inter-disciplinary and inter-agency research collaboration will be required. These are needed to effectively integrate fisheries management, oceanography, fisheries ecology, marine habitat, meteorology, environmental toxicology, as well as initiating long term regional monitoring plans. Significant increases in funding and program development would need to occur far in advance of any policy implementation. And all of this process would beg for legal assault from the environmental industry – a major vulnerability if requirements for ecosystem-based management are added to the Act ahead of the basic data collection and development of scientific methodologies.

ADA does not support the creation of an independent ecosystem council. Regional councils are best suited to manage fisheries concerns unique to the ecological conditions in their respective areas.

Management by Litigation:

Response to litigation is currently one of the predominant management concepts in use today to manage the fisheries off the coast of Alaska. The Environmental Industry’s legal challenges under the Endangered Species Act, National Environmental Policies Act and Essential Fish Habitat are creating an extremely unstable regulatory and fiscal environment for harvesters, processors and Alaska’s fishing dependent coastal communities. ADA is concerned that if a legal and philosophical paradigm shift mandates “ecosystem based” management approaches without sufficient data and scientific foundation that a whole new round of legal challenges will arise from the law offices of the environment industry.

Management by litigation is detrimental to both the resource and communities that depend on those resources for several reasons. First, the science needed to manage the resource becomes beholden to the legal process instead of the scientific and management priorities. The process of legal discovery replaces open, transparent, peer reviewed research. Defensive or strategic research is pursued with a predetermined conclusion in mind. Legal exposure overrides biological process. Under current legal and regulatory process, the burden of proof lies with the stakeholders; not the litigants or the agencies. Closed litigious negotiations also disenfranchise the communities and stakeholders from the policy decision process.

One of the examples of this process lies in the enforcement of the Endangered Species Act inconsistent with the principles and national standards of the Magnuson-Stevens Act. Following the finding of jeopardy contained in the Nov 2000 Biological Opinion on Steller Sea Lions, the Office of Protected Resources, based on speculation and indirect correlations, instituted new fishery management measures that increased bycatch, disenfranchised certain sectors of the historic fishing community, disregarded concerns for human safety, while creating direct economic cost to affected communities, industry, and taxpayers that to date have exceeded several hundreds of millions of dollars with no discernible impact on any observed recovery of the Western Stock of Stellar Sea Lions.

EFH: The Sustainable Fisheries Act mandate for protecting fish habitat to the extent practicable and particularly NMFS’ guidelines for protecting essential fish habitat also spawned vulnerability for those dependent on fishing for the livelihoods. One problem was the all inclusive definition of “essential” fish habitat built into NMFS implementation guidelines. Resource-based industries cannot reasonably be held to the standard of having no detectable effect on the environment. Yet that is how many NGOs sought to interpret the EFH mandate- i.e. to minimize the effects of fishing wherever those effects were discernable and with no regard as to whether a measurable effect truly affected the long-term productivity of the habitat for the fish resources of Alaska upon which the nation depends. In addition to the rancor between resource users and advocates of protectionism created by the open-ended EFH guidelines created, in many ways the lack of clearly definable scientific goals and once again allowed litigation to paralyze the management system. This probably added at least two years to the North Pacific Council’s consideration of reasonable and practicable protections for deep-water corals in the Aleutian Islands.

The success of the federally managed fisheries in the North Pacific is directly linked to the high regard and confidence that the harvesting and processing sectors have for the science based process of the North Pacific Fisheries Management Council. Open and transparent dialogue between scientists, industry and the management council is the foundation of successful management. Litigation has, at times, compromised that process.

ADA supports a precautionary and prudent approach in crafting amendments to the Magnuson-Stevens Act; anything less will likely lead to another round of legal challenges from outside interests.

Rationalization and Rights Based Fisheries Management:

For fisheries to remain viable and sustainable in the Gulf of Alaska, they need to be attractive to long-term investment. The Bering Sea AFA co-ops and the Halibut/Sablefish IFQ program have been very successful in creating a stable market based business and regulatory environment. Both management programs have reduced waste, increased the value of the resource, ended the “race for fish” and created safer working conditions for the harvesters. It appears that the Bering Sea Crab rationalization plan will produce comparable results.

Federal fisheries management has undergone substantial evolution over the course of the last decade in much of North Pacific. However, the federal fisheries in the Gulf of Alaska are still transitioning. Traditional management tools have not been able to address issues of over-capitalization, by-catch reduction or community stability. The general objective of fisheries management is to conserve marine resources and maximize sustainable benefits to the nation. While quota based management systems may effectively limit fisheries harvest, they promote a “Race for Fish” and encourage “over capitalization”. This situation is becoming increasingly problematic in the Gulf of Alaska where several of our groundfish fisheries are now measured in hours or days.

With rationalization comes responsibility. Alaska Draggers Association is looking forward to the opportunity to assist in creating constructive tools that will better allow harvesters and managers the ability to effectively deal with:

-Minimizing discards and bycatch

-Understanding the true impacts of fishing practices on benthic habitat

-The identification of mitigation strategies to ameliorate fishing impacts

-Minimizing disproportionate impacts of Protected Species Management

-Improving safety at sea

-Ensuring the socio-economic and cultural stability of coastal communities

-Developing cost effective harvest auditing methodologies

-Assisting agencies with fisheries research and reliable data collection

ADA supports rights based fisheries management utilizing such concepts as Dedicated Access Privileges (DAPs) or Individual Fishing Quotas (IFQs) that would allow industry and managers a broader suite of tools to reconcile these issues. Co-operative management structures add additional flexibility to manage bycatch and quota distribution while maintaining historic processing and community relationships

DAPs should be a fisheries management tool suited to the particular needs of a specific fishery in a given region. Admittedly, Alaska may be somewhat unique in that we have already implemented several fisheries rationalization programs, including Halibut and Sablefish IFQ’s, the American Fisheries Act, the Bering Sea Crab Rationalization Program. The Gulf of Alaska Rockfish Pilot Program and Gulf of Alaska comprehensive rationalization plan are working their way through the North Pacific Council Process. Each rights based management program has emphasized different management objectives. Each new program has evolved to meet new issues and complexities.

The challenge in developing National Standards for Rights-Based fisheries lies in the fact that “one size does not fit all”. Alaska is different geographically, culturally, and ecologically from New England, the Mid-Atlantic, or the Western Pacific. Management concerns and industry needs for the Central and Western Gulf of Alaska are different than those of the Bering Sea or South-East Alaska. We need regional programs that best fit local needs. Regional councils operating as a component of the Magnuson-Stevens Act are best suited to develop and tailor these programs.

ADA does not support the requirement of a referendum vote by all licensed harvesters with-in a region to validate a rationalization program. Allocative arguments between individual harvesters of various gear sectors have the potential slowing efforts for improving the management process of the North Pacific.

Creation of a National Fisheries Observer Program:

Alaska has a functional and in most regards successful fisheries observer program. This program monitors most segments of our federally managed fisheries for directed harvest and bycatch rates. Observers also monitor compliance with fisheries regulations, gear types, fishing areas, and well as Marine Pollution regulations and vessel safety requirements. There are currently several gaps in the Alaska observer program's ability to gather reliable data and to provide consistent coverage of all the harvesters. Our observer program is funded on a pay-as-you-go basis by the vessels and plants that are required to carry observer coverage. Vessels less than 60 feet are not required to have observer coverage. Vessels greater than 60 feet and less than 125 feet in length are required to maintain a minimum of 30% coverage. Vessels over 125 ft are required to maintain 100% coverage, and at times 200% coverage.

This situation is both inequitable and ineffective in design. Vessels less than 60 feet get a free ride. And other vessels that can pack 500,000 pounds of product pay the same as vessels that can only carry one-quarter of that amount. While some vessels incur observer costs of less than one half of one percent of their gross fishing revenues, smaller vessels that are just over the 60 foot criterion may have observer costs that exceed 10 percent of their revenues, while other vessels incur no cost at all. There is a significant lack of observer data from vessels less than 60 feet.

ADA is currently joining with NMFS to test the effectiveness of an automated video monitoring program to audit the upcoming GOA rockfish fishery. As the industry moves toward a more rationalized approach to fisheries management, tools that allow harvesting co-operatives to monitor and self regulate harvest quota's and bycatch rates will be necessary to meet the regulatory mandates of the future.

ADA supports developing an equitable and cost effective national fisheries auditing program. Management concerns, fleet logistics, and data collection requirements need to be considered on a regional basis. An observer program should not be designed as an unfair tax to disproportionately impact certain segments of the industry, nor should it be unduly burdensome on the harvesters or processors.

Mr. Chairman, I'll end by summarizing five import points:

- Sustainable Fisheries are vital to Alaskan communities. Alaska's issues and needs are different than those in other areas of the nation. Access to well managed resources is paramount to the vitality of Alaska's coastal communities.
- Management by litigation does not encourage credible science. The level of science required for ESA is not consistent with traditional academic research which encourages transparency and peer review. Intra-agency consultation and review creates a bias perspective. Policy developed for ESA and the MMPA mandates are not consistent with the National standards of the Magnuson-Stevens Act.
- Ecosystem Based Management approaches is not sufficiently defined to effectively manage federal fisheries. Given our current information base and technological capabilities, comprehensive ecosystem based management structures would currently be too complex to be effectively implemented and administered.
- Rights Based Fisheries management would allow harvester and managers additional tools to meet increasing regulatory mandates. Non-rationalized fisheries in the Gulf of Alaska are being economically marginalized by entities with a more efficient market structure combined with the cumulative effects of severe environmental regulation that constrains our ability to operate. IFQs, co-ops or other forms of rights based management will encourage harvesters, processors, and fishing dependant coastal communities to invest in the long term vision of sustainable fisheries in Alaska to the overall benefit of the nation.
- A national fishery observer program should be instituted, based on an equitable cost structure, regional needs and the information requirements of specific fisheries.

Thank you for your consideration.