

At-sea Processors Association ◦ Berkley Conservation Institute, Pure Fishing ◦ Cape Cod Commercial Fishermen's Alliance ◦ Center for American Progress ◦ Michael De Alessi, Ph.D. ◦ Environmental Defense Fund ◦ Gulf of Mexico Reef Fish Shareholders' Alliance ◦ Ray Hilborn, Ph.D. ◦ William T. Hogarth, Ph.D. ◦ Steven Murawski, Ph.D. ◦ The Nature Conservancy ◦ John Oliver ◦ Scott Rayder ◦ Andrew A. Rosenberg, Ph.D. ◦ Sea State, Inc. ◦ Sullivan & Richards ◦ United Catcher Boats

November 25, 2013

Dr. Kathryn D. Sullivan
Acting Under Secretary of Commerce for Oceans and Atmosphere
National Oceanic and Atmospheric Administration
1401 Constitution Avenue, NW, Room 5128
Washington, D.C. 20230

Dear Dr. Sullivan:

Congratulations on your recent appointment. We are a working group of fishery management experts and leaders from around the country who have been meeting since February to consider cooperative approaches for managing fisheries in the U.S. We look forward to working with you on the important fisheries issues facing our nation and urge you to make co-management one of your top priorities as you steer the agency through this challenging budget climate. By embracing co-management as part of the fabric of sustainable fisheries management, we are convinced you can bring in new resources from outside parties to enhance the agency's capabilities, while achieving healthy and productive oceans and fisheries and improving stakeholder relationships.

Much of the discussion at Managing our Nation's Fisheries III touched on the value of agency-stakeholder cooperation and devolution of certain agency responsibilities through co-management agreements for addressing social and economic considerations, sustaining working waterfronts, providing for more responsive and effective recreational fisheries management, and improving the quality of and confidence in fisheries research, among other topics. Devolving more substantial research and management roles to states and stakeholders can help reset the relationships to bring new resources and creativity to solving these and other challenges.

Co-management harnesses the innovation of the private sector and other levels of government by integrating fishing interests, state regulators, community leaders, and others more directly in collecting and analyzing data and making real-time management decisions. For example, fishermen can provide ship time for data collection that the agency might otherwise not be able to undertake (as has been done in the Pacific whiting fishery); cooperative associations can share data among their members in order to avoid bycatch hot spots (as happens with the risk pools in the Pacific IFQ trawl fishery); state or local government officials can set specific management measures for anglers within their jurisdictions (as Alaska does in its management of the salmon fishery) and university-based scientists can update stock assessments (as occurs in the joint stock assessment process for New England scallops). This approach, when coupled with advances in information technology, can provide fishermen and fishing communities with the flexibility to find the most efficient ways to comply with conservation mandates.

Congress has made clear that implementing co-management is a priority. Section 318 of the Magnuson-Stevens Act provides that "[t]he Secretary . . . in consultation with the Councils, shall establish a cooperative research and management program" and that this "program shall be implemented on a regional basis and shall be developed and conducted through partnerships among Federal, State, and Tribal managers and scientists . . . fishing industry participants . . . , and educational institutions." 16

U.S.C. § 1867(a)-(b). Under this section, funding is available for projects that “address critical needs identified by the Councils in consultation with the Secretary” and “form part of a coherent program of research focused on solving priority issues identified by the Councils.” *Id.* § 1867(c).

Most of the agency’s efforts to fulfill this statutory obligation have focused on cooperative research, but that research often addresses a collection of disjointed topics rather than constituting a “coherent program focused on solving priority issues identified by the Councils.” *Id.* In some cases, agency staff discount the value fishery participants can add in the co-management context, and there is little guidance about data, information, and analyses that would be most helpful to NOAA’s efforts or how to bring specific co-management ideas forward. As a result of this largely *ad hoc* approach to cooperative management and research, NOAA misses out on an important opportunity to improve management and build communication and trust with its constituents.

To harness the innovation of the private sector and other levels of government, we recommend that NOAA create a clear process for establishing new co-management relationships. Publishing guidance pursuant to Sec. 318 would send a signal to stakeholders that the agency intends to involve fishery participants and others more meaningfully in developing co-management solutions. The guidance should reflect the advice of stakeholder groups including fishery representatives, academics, nongovernmental organizations, other experts, and the fishery management councils.

Beyond such guidance, the agency currently has three ongoing regulatory processes that could address impediments to co-management. First, in revising the rules on confidentiality of fisheries data, NOAA should take steps to facilitate data sharing among fishery participants in co-management partnerships. Most fishery monitoring data flows from the dock to the agency. Fishermen’s associations rely on routine downloads of these official data to inform their operational decisions. While there are a number of logistical, technical, and regulatory limits to this data sharing, agency staff often cite confidentiality concerns in response to requests by fishermen to do so. Clarifying confidentiality regulations to provide procedures for voluntary data sharing would facilitate important collaboration.

Second, the pending guidance on electronic monitoring and reporting (EM/ER) should recommend that fishery management councils permit fishermen who participate in cooperatives or similar associations to submit monitoring data collected through their organizations so that members need not submit reports via *both* private data collection systems and government logbooks and trip reports. This change would reduce the reporting burden on fishermen, improve data timing and quality, and reduce the cost of monitoring. The guidance should also fully address how third-party data collection systems could be incorporated into management of recreational fisheries.

Third, the agency should provide guidance on cost recovery under section 303A(d) that improves the consistency and transparency of its application at the regional level, and that explicitly recognizes and credits the value of management functions assumed by the affected fleet. Under Section 303A(d), NOAA may assess fees to cover the incremental additional costs of management, data collection and analysis, and enforcement activities under a Limited Access Privilege Program. NMFS published a technical paper that described implementation of this provision in November 2007.¹ Since then, however, cost recovery procedures around the United States have been inconsistent and confusing, which impedes co-management efforts.

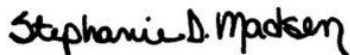
¹ The Design and Use of Limited Access Privilege Programs. 2007. Lee Anderson and Mark Holliday, editors. Pp. 89-95.

NMFS should be specific about the incremental management costs to be covered by the fee. Cost recovery fees should follow a clear legal framework and be consistent with national implementation guidance. In many fisheries, the industry has undertaken management activities through a cooperative or other co-management arrangement, and the agency should credit the value of those functions in the agency's cost recovery calculations. Failing to do so in a consistent and transparent manner deters fishermen who would otherwise be willing to invest directly in improving fishery management.

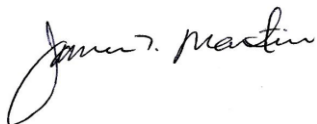
Finally, we note that if a party outside NOAA Fisheries wants to help pay for a research project or a stock assessment, the agency's perceived inability to receive funds from partners is a barrier to co-management. We urge the agency to provide a definitive answer as to whether it may accept these contributions from third parties and, if not, to work with Congress to create a mechanism for doing so. Such a system could enable a more cooperative relationship between NOAA Fisheries and outside parties who wish to enhance the ability of the agency to conduct research on specific stocks, for instance, as a way to reduce the precautionary buffers necessitated by limited data or infrequent stock assessments.

Our coalition recognizes that NOAA Fisheries is being asked to do much while public funding and resources are limited and capacity in the private sector is left untapped. Addressing the pressing problems facing fishery management today through co-management is an 'everybody wins' proposition for the private sector, the government, and the resource. We have found that there is substantial common ground among different interests on this issue, and we would like the opportunity to meet with you and your senior staff to discuss our ideas on making co-management work for all of us. Thank you for your consideration.

Sincerely,



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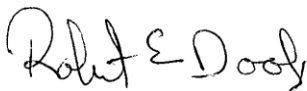
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