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February 1, 2013

Please find the following comments on behalf of the Freezer Longline Coalition (FLC). The comments include a re-submission of a letter to NMFS, submitted to Council in October 2011, addressing the crab sideboard provision of the Gulf of Alaska Pacific cod sector split (Amdt 83). Also included are comments submitted by Beauty Bay Captain Scott Hansen for the October 2011 Council meeting supporting comments put forward by FLC at the meeting.

The FLC appreciates the time and efforts of the Council to review these comments and consider the Initial Review on the removal of the non-AFA crab sideboard limitations from the GOA sector split action. Do not hesitate to contact me should you have questions regarding the given information.

Best Regards,

A handwritten signature in blue ink, appearing to read "C. See", is positioned above the typed name.

Chad I. See
Executive Director

AGENDA ITEM: C-2 Groundfish Issues
(c.) Initial review of GOA Pacific cod sideboards for FFL

September 20, 2011

Chairperson Olson,

I request that you give serious consideration to the comments submitted by Kenny Down, Executive Director of the Freezer-Longline Coalition.

What is to be gained from this action other than the loss of income to our operation as well as that of the other four vessels? We have voluntarily worked closely with NMFS, specifically Mary Furuness and Josh Keaton, using one hundred percent observer coverage while also contracting Janet Smoker of Fisheries Information Service for daily monitoring of bycatch and quota to ensure that proper harvesting levels are met.

The quota we are currently fishing in the Gulf is not a part of the sideboard allocated cod, but rather the historic catch of the Freezer-Longline Cooperative Conservation vessels. We have fished responsibly in the past and feel a great injustice will be done by eliminating our vessels from the GOA.

In years past, the GOA has contributed up to a quarter of our yearly income. This loss will significantly, and negatively, impact not only myself but also our crews and their families.

Please feel free to contact me for further discussion via e-mail or directly at 206-200-8897.

Sincerely,

Scott Hansen, Owner/ Operator, CP Beauty Bay



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August 26, 2011

Glenn Merrill, Assistant Regional
Administrator, Sustainable Fisheries Division
Alaska Region, NMFS
Attn: Ellen Sebastian

RE: RIN 0648-AY53

**Notification of availability of fishery management plan amendment; request for comments.
Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod Allocations in the Gulf of
Alaska; Amendment 83; Proposed Rule**

Dear Glenn,

I am submitting these as initial comments on the plan amendment and proposed rule ***for Fisheries of the Exclusive Economic Zone off Alaska; Pacific Cod Allocations in the Gulf of Alaska; Amendment 83*** on behalf of the Freezer Longline Coalition (FLC). We intend to submit additional comments as well on the proposed rule; request for comments but wanted to get this portion of our comments to you as early as possible.

The Freezer Longline Coalition (FLC) represents twenty-six hook-and-line catcher processors (HAL C/P) currently licensed and endorsed for Pacific cod (P. cod) fishing in the Gulf of Alaska (GOA). This is a Washington and Alaska based and owned fleet. The fleet has been operating in a cooperative fashion in the GOA continuously since 2006 in order to maintain the orderly harvest of fish in the GOA and to bring reductions in bycatch among other efficiencies. The vessel owners in the group have more than twenty-five year of continuous history operating HAL C/P's in the GOA Central and Western management areas. The GOA represents a very large percentage of history for several of our members who rely on the implementation of this amendment to allow durable fisheries cooperative among all of the GOA HAL C/P sector participants to be formed.

Therefore we are anxious to see the amendment implemented, and generally support the proposed rule moving forward, however prior to implementation our members request

1.) That the Secretary reject the portion of the Council's motion as to its application as outlined in the proposed rule¹ section VII, Pacific Cod Sideboard Limits in the GOA, as the section deals with the split between CP and CV sectors and gear types of the non-AFA crab sideboard amounts.

¹ <http://www.regulations.gov/#!documentDetail;D=NOAA-NMFS-2011-0185-0001>

2.) That the non-AFA crab sideboard amounts are recalculated by combining the inshore and offshore sideboards into a single account in the respective Western and Central GOA regulatory areas (combine the inshore and offshore sideboards into a single sideboard). As was done in the same component for the non-exempt AFA CV sideboards.

3.) That these changes are reflected in the final rule.

While the FLC recognizes that this recommendation may not be a permanent resolution and the final solution may well come in future Council analysis and action to end a competition for non-AFA crab sideboard quota; it is far more reasonable than allowing the proposed rule to go forward to final rule and implementation and allowing significant negative impacts to occur without proper analysis, meaningful public comment, and careful consideration and open discussion by the Council, none of which happened on this component.

The proposed split as outlined in table 11 of the proposed rule (shown below) was:

- Never properly analyzed by the Council
- Received little to no public comment on the component as outlined in the proposed rule (the FLC has found none)
- Was based on an arbitrary set of historical years not analyzed by the council in this action
- Has the unanalyzed and overly harsh effect of completely eliminating five FLC vessels from participation in a fishery in which they have significant recent catch history as well as having qualified for under GOA Fixed Gear Recency.
- In addition the components path into the proposed rule in no way clears the hurdle of meeting proper council protocol and notice. Each of these points is expanded on and explained in some detail below.

1.) Component of proposed rule dealing with non-AFA sideboards was never properly analyzed by the Council

In fact the sub-part of component 4 dealing with non-AFA crab sideboards in the Council motion was never discussed prior to October of 2009 when it was added by a motion of the Council. The FLC first saw this component in the final action document before the December 2009 NPFMC meeting as only a brief mention in the analysis. In fact nowhere in the "effects on Catcher Processors" was this even mentioned, nor was it mentioned in the "effects on Catcher Processors" in the Secretarial Review Draft.

If the effect was to eliminate five hook-and-line catcher processors from participating in a fishery in which they were and are active, certainly this should have been analyzed. We believe it would have, had the effect been realized. We do not believe anyone on Council or NMFS staff was aware at the time the final motion passed that the effect of this particular component was to eliminate recent participants from a sector they clearly have every right to participate in, and have been participating in recent years. If the Council was aware of this effect, certainly it would have been mentioned and analyzed as to the

economic losses suffered by the owners, operators, and crew of these five vessels. And certainly that effect would have been mentioned in the Secretarial Review Draft EA/RIR/IRFA as their can be no question as to the significance of this impact. This clearly was an unanticipated effect of the NPFMC final motion, and was not realized in the Secretarial Review Draft, or in the proposed rule, therefore to date has never been properly analyzed. This component should be rejected and recalculated in the final rule as a logical extension of the proposed rule and released for comment.

2.) Component of proposed rule dealing with non-AFA sideboards rule received little or no public comment on the component as outlined in the proposed rule

The FLC has taken on the tedious task of reviewing all public comment (via available audio files) and Council deliberations on this action from the December 2009 Council meeting, including a review of the NPFMC and Advisory panel minutes and have found no evidence of support from the public comment for this component, nor any opposition. This lack of public comment highlights our argument that the effect of eliminating vessels from GOA participation was not clear in the analysis. By not mentioning the effect, only having a cursory brief mention on the potential impacts, and adding the component only at final action analysis, the Freezer Longline Members affected by this action have been denied of their proper due process and public comment opportunity.

3.) Component of proposed rule dealing with non-AFA sideboards was based on an arbitrary set of historical years not analyzed by the council in this action

The table used in Council analysis is shown below. This table was taken directly from the analysis before the Council at the final action December 2009². This table was only available in the final action document as this component was not included in any prior initial review or discussion papers on this action.

² http://www.fakr.noaa.gov/npfmc/current_issues/pcod/GOAPcodsplit1209.pdf

Table 2-52 from the Council's Final Action 12-2009 analysis

AFA CV Sideboards	
Area	Sideboard (percentage of TAC)
Western GOA	13.31%
Central GOA	6.92%
Non-AFA Crab Sideboards	
Western GOA	Sideboard (percentage of TAC)
Hook-and-line CV	0.03%
Pot CV	8.16%
Trawl CV	0.60%
Hook-and-line CP	0.15%
Pot CP	0.64%
Total CP	0.79%
Total CV	8.80%
Total	9.59%
Central GOA	
Trawl CV	0.10%
Hook-and-line CV	0.01%
Jig CV	*
Pot CV	3.54%
Hook-and-line CP	*
Pot CP	0.92%
Total CP	*
Total CV	*
Total	4.64%

Source: NMFS inseason management.

Why this particular table was used is unclear as the analysis was completed by an analyst who no longer works for NMFS and the final action analysis had no citation. Further, it is not clear in the analysis what this table represents; the table is completely un-cited other than noting the source is from NMFS inseason management. Allocations for the HAL CP for instance in the Central GOA is simply an asterisk. The FLC was able to discover that this table is in fact an artifact from the crab rationalization analysis and represents stale history from 1996-2000. Being that this action represents a follow up to fixed gear recency and that this action used recent years up to and including the most recent year at the time of final action (2008) it highlights the need to have analyzed the issue from a broader angle than simply relying on a confusing table lacking citation and using this as a methodology without further analysis of the possible (and in our case harsh) ramifications.

This table was carried over in the proposed rule as Table 11 (shown below). However for the first time estimated allocations in metric tons were shown (as compared to the table 2-52 used in Council motion where allocation examples were not given), however the asterisk is still in place of metric tons for the Central Gulf hook-and-line CP sector. How the FLC is to comprehend and intelligently comment on an allocation that has only been portrayed as an asterisk furthers the need to have this component rejected

as stated in the proposed rule and recalculated by combining the non-AFA inshore and offshore sideboards into a single account in the respective Western and Central GOA regulatory areas.

TABLE 11—EXAMPLE CALCULATION OF THE GOA PACIFIC COD SIDEBOARDS FOR AFA CVS AND NON-AFA CRAB VESSELS RECALCULATED BY COMBINING INSHORE AND OFFSHORE SIDEBOARDS INTO A SINGLE SIDEBOARD PERCENTAGE FOR EACH REGULATORY AREA; NON-AFA CRAB VESSEL SIDEBOARDS ALSO CALCULATED BY GEAR AND OPERATION TYPE

Regulatory area	% Sideboard of TAC	2011 Estimated sideboard MT	
		A Season	B Season
AFA CV Sideboards			
Western GOA	13.31%	1,820	1,213
Central GOA	6.92%	1,676	1,117
Non-AFA Crab Sideboards			
Western GOA			
Hook-and-line CV	0.03%	4	3
Pot CV	8.16%	1,116	744
Trawl CV	0.60%	82	55
Hook-and-line CP	0.15%	21	14
Pot CP	0.64%	87	58
Total CP	0.79%	108	72
Total CV	8.80%	1,202	802
Total	9.58%	1,310	874
Central GOA			
Trawl CV	0.10%	24	16
Hook-and-line CV	0.01%	2	2
Jig CV	*	*	*
Pot CV	3.54%	857	572
Hook-and-line CP	*	*	*
Pot CP	0.92%	223	149
Total CP	*	*	*
Total CV	*	*	*
Total	4.64%	1,124	749

*These data are considered confidential under the MSA and other Federal laws and are not included in the table.

4.) Proposed Rule dealing with non-AFA sideboards has the unanalyzed and overly harsh effect of completely eliminating five FLC vessels from participation in the GOA fishery

FREEZER LONGLINE COALITION NON-AFA CRAB SIDEBOARD VESSELS Eliminated from GOA participation under the proposed rule*		
Vessel(s)	LLP	FEP
Bering Prowler	LLG 3681	4540
Beauty Bay	LLG 3617	4533
Aleutian Lady	LLG 3090	4102
Baranof	LLG 1578	1248
Courageous	LLG 1576	1276

*Created by FLC

No analysis was completed, nor was there any discussion at final action during NPFMC deliberations of the significant impact of removing the above named vessels, owners, operators and crew from participation in the GOA P. cod fishery. A fishery that the vessels have had recent participation in and in which the Council had only eight months earlier (April 2009) analyzed the participation of these vessels in the GOA recency action; determining that because of recent history all five of the named vessels would receive GOA P. cod endorsements.

The analysis, Council public comment, Council deliberations and the Secretarial review draft all failed to capture the impact to this fleet and therefore this component should be rejected and recalculated as described above until such a time as the Council takes this issue up and completes a proper analysis as to the social and economic effects to the various sectors.

5.) Proposed rule eliminates vessels that qualified under recent GOA fixed gear recency³ in the western and central gulf of Alaska, and have significant recent catch history.

The proposed rule results in elimination of five FLC member vessels from GOA participation. Four of these five vessels in fact qualified with catch history above the threshold set by the Council in the recent GOA fixed gear recency action just implemented this year. The fifth vessel qualified under the exemption for vessels that had not participated in recent years but whom participated in “standing-down” allowing other vessels to form a fishery cooperative that benefitted all GOA P. cod participants. It is hard to comprehend that the Council could have been aware of the loss of these vessels to the sector, and the resulting loss of opportunities for these vessel owners, operators and crew or we believe this loss would have been analyzed.

6.) Non-AFA crab sideboard components path into the proposed rule in no way reflects proper council protocol and notice for an action that strips five vessel owners, operators and crews of significant historical revenue and important fishing privileges .

The results of this action created winners and losers, however this was not analyzed. Simply stating *“Many of the sideboard percentages are only a small fraction of the respective area TACs, and are not likely to support a directed fishery”⁴* in no way dissolves the Council of a responsibility to properly analyze the effects and to point out an action that will eliminate a vessels owners, operators and crews from a fishery they are currently participating in and have historically participated in. Had the effects of the component been clear (properly analyzed) certainly it would have resulted in public comments and clarity in Council deliberations.

Closing:

It is admirable that the Council attempted in this Pacific cod sector split package to reduce the possibility of a race for fish in the non-AFA P cod sideboard quota among sectors. However if the Council wishes to take this additional action it should be analyzed fully, public notification and meaningful public comment

³ <http://www.fakr.noaa.gov/frules/76fr15826.pdf>

⁴ From final Council analysis, single isolated mention of potential effect to Catcher Processors.

should be completed, and only after full deliberation on the topic should action be forwarded to the Secretary for approval. Until such a time, the component of the proposed rule dealing with non-AFA crab sideboard allocations should be dealt with in an identical fashion as the Council used for the non-exempt AFA crab sideboards, as outlined in these comments.

Please feel free to contact me with any questions or to request any clarifications,



Kenny Down
Executive Director
Freezer Longline Coalition



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**FV Kema Sue
PO Box 285
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January 28, 2013

Mr. Eric Olson
North Pacific Fishery Management
Council
605 West 4th Avenue, Suite 306
Anchorage, Ak. 99501-2253

Re: Agenda Item C-2(c)

Dear Chairman Olsen:

We write today to request that the Council add a new alternative to the **GOA Pacific Cod Sideboards for FFL Action**. Specifically we request the addition of an alternative that will establish new Sector Allocations within the existing HAL CP Sector allocations in the Central and in the Western Gulf of Alaska.

The Initial Review Draft, *Revising Freezer Longline GOA Pacific Cod Sideboards*, is a good document. Impacts to the Freezer Longline sector from Non-AFA Crab GOA sideboards are very well described, as are impacts to the overall sector if the sideboard restrictions are removed. The analysis clearly identifies that three distinct sectors exist within the FFL sector in the GOA.

1. BSAI Freezer Longline Cooperative members sideboarded by the non-AFA Crab GOA sideboards
2. BSAI Freezer Longline Cooperative members not sideboarded by non-AFA Crab GOA sideboards
3. Non sideboarded and non-members of the BSAI Freezer Longline Cooperative

The Alpine Cove Fisheries LLC and the FV Kema Sue are members of the third group. Alpine Cove Fisheries, LLC holds an LLP endorsed for the WGOA HAL CP sector. FV Kema Sue has an LLP endorsed for the CGOA HAL CP sector. Neither have LLPs endorsed for the BSAI HAL CP sector.

The Problem Statement

The third paragraph of the Problem Statement for this action states the following:

Removal of the non-AFA crab GOA Pacific sideboards for freezer longliners would restore to the sideboarded vessels the ability to participate in the GOA Pacific cod fishery. Removing sideboard limits for the freezer longline vessels, however, may adversely impact GOA only freezer longline vessels, and to the extent practicable, there is a need to minimize the impact.

The potential impact to the GOA only freezer longliners is clearly identified and there is recognition of the need to minimize that impact. Impacts to the GOA only FLL vessels are further described throughout the Initial Review document.

Pp vii: If recent GOA Pacific cod fishing is an indication of future lost revenue, the GOA Pacific cod sideboard restrictions could result in an approximate three percent loss of annual revenue for these vessels, based on releasable data. The additional fishing opportunities in the GOA Pacific cod will likely have little impact on other cooperative vessels not restricted by sideboard limits, but could be significant for non-cooperative freezer longline vessels if they increase their fishing effort.

Pp 13: The fisheries are prosecuted as limited access derby fisheries.

Pp vi: Prior to the 2012 season, five of the six sideboarded vessels capitalized on the aggregate GOA Pacific cod sideboard limits to increase their fishing effort in and catches from the GOA Pacific cod fishery relative to their modest fishing effort during the period used to define sideboard limits (1996-2000). With this increase, the dependency of these vessels on GOA Pacific cod fishery increased. Since the sideboards are set based on the historical catches of the vessels during 1996-2000, additional catches by the freezer longline vessels arose from increasing harvests relative to sideboarded vessels in other sectors (such as trawl catcher processors and pot catcher processors).

Pp vii: If recent GOA Pacific cod fishing is an indication of future lost revenue, the GOA Pacific cod sideboard restrictions could result in an approximate three percent loss of annual revenue for these vessels, based on releasable data. The additional fishing opportunities in the GOA Pacific cod will likely have little impact on other cooperative vessels not restricted by sideboard limits, but could be significant for non-cooperative freezer longliners for these vessels...

Pp 9: Finally, removing the GOA Pacific cod sideboards combined with Amendment 99, which adjusts the maximum length overall (MLOA) specified on the LLP licenses assigned to BSAI Freezer Longline Conservation Cooperative to accommodate larger replacement vessels could negative effect the three non-member vessels active in the GOA Pacific cod fishery. Amendment 99 would allow these six freezer longline vessels to increase the length of their vessels if replaced in the future. With this larger vessel advantage combined with cooperative fishing, BSAI-endorsed LLP license holders could consolidate BSAI harvests within the cooperative, and use their increased processing capacity to harvest a greater proportion of the GOA Pacific cod sector allocation, relative to their 2001 through 2011 historical catch. This has the potential to negatively impact the three non-member GOA Pacific cod vessels.

Presently neither alternative 1 nor alternative 2, address the impacts of action or inaction under this action item. Clearly Alt 2 poses the risk of accelerating dramatically the “limited access race for fish” in the GOA FLL sector. But, alternative 1, also fails the problem statement because it doesn’t address the present “race for fish” in the GOA CP sector and the lopsided negative impact that that race imposes on the GOA only freezer longliners.

Background

The combined Pacific Cod catches by the Freezer Longline sectors of the BSAI and the GOA are described in the table below.

	Total P-cod Catch (mt) by year 2010-2012	
	BSAI FLC member HAL CPs	GOA only HAL CPs
2010	91909	915
2011	124736	1134
2012	130841	1524

Since implementation of the BSAI Crab Rationalization program the catch of GOA P-cod by crab sideboarded HAL CP vessels has increased from 189 mt in 2005 to 1357 mt in 2011. In 2012 the harvest by these vessels was zero due to the fact that there was insufficient TAC available in the GOA HAL CP sector to open the fishery. In other words, after implementation of the crab program the sideboard allocation of P-cod was aggregated between CP Trawl, CP Pot, and CP HAL in the GOA. The CP HAL vessels took the lion share of that sideboard amount from 2006-2011. In 2012, the GOA crab sideboard was allocated by sector, and the HAL CP sector got an amount insufficient to open the fishery for the sideboarded vessels.

During the time period 2005-2011 the sideboarded vessels caught approximately as much p-cod in the GOA as did the GOA only CPs. If Alternative 2 is chosen under this agenda item, the currently crab sideboarded CPs would be able to fish in the GOA and their catch would accrue toward the overall GOA HAL CP TACs. The current crab sideboard allocation assigned to the sideboarded CPs would, of course, be added to the TAC, but it is a very small amount (unable to sustain a directed fishery).

The GOA HAL CP sector fishery is conducted as a “limited entry derby fishery”. The harvesting capacity of the overall sector vastly exceeds the capability of the resource in the GOA to sustain the sector. The FLL sector is primarily a BSAI fishing fleet. Typically, 99% of their harvest is taken in the BSAI. The GOA TAC available to this sector is tiny. Nevertheless, recent actions by the Council have tended to improve and enhance the operational efficiencies of this sector. The action to remove the MLOA restrictions on this sector greatly improves their ability to build new vessels with much improved economic and operational efficiencies.

The end result here is that if the Council chooses Alternative 2 at this time, the GOA HAL CP fishery which is already massively over capitalized will be come even harder

to manage. Unless the Freezer Longline Coalition can and does act to restrict it's member's harvests in the GOA, presumably by imposing some sort of enforcing action on the members regarding their BSAI harvests, the fishery will become a very competitive and hard to manage "limited entry race for fish". Under this scenario, the GOA only HAL CPs who typically harvest approximately 30% of the GOA HAL CP Sector TAC will be hard pressed to survive at all. Remember that 30% of the GOA CP P-cod TAC is approximately 1% of the BSAI HAL CP harvest!

There are no other viable fisheries for the GOA only CPs to enter. For that matter none exist actually for the BSAI HAL CPs either. If p-cod TACs in the BSAI decline in the future, there is no where near enough p-cod resource in the GOA to provide any sort of economic backstop for the BSAI CP sector.

The GOA only CPs have fully eligible LLPs that give them access to the GOA HAL CP TACS. They have operated steadily in the WGOA and CGOA. During the last three years they have caught more than 25% of the GOA TACs on average. In 2012 they harvested approximately 36% of the GOA TACs.

Summary

At this time the Alpine Cove Fisheries, LLC and the owners of the FV Kema Sue request the Council to add a new Alternative 3 to this analysis. Specifically these companies ask that the Council establish a new Sector within a Sector. The new sector would have an allocation of 30% of the respective WGOA and CGOA HAL CP Sector allocations. The sector would be available to HAL CP eligible vessels that are not eligible to fish in the BSAI. We also recommend that the council establish a restriction on the vessels in this new sub sector to prevent any potential incentive to "race for fish" within the subsector. One suggestion is to restrict vessels fishing in the new sector to using vessels the same length or shorter than those being used today by the GOA only FLL vessels.

We hope that the NPFMC takes action to preserve this remaining sub sector of the HAL CP sector. We hope it recognizes the small size of the vessels in this sector and the high degree of involvement with and interdependency they have with coastal communities and support facilities in the Gulf of Alaska.

Respectfully submitted by,

 for

Greg Elwood
Alpine Cove Fisheries, LLC

 for

Julie Miller
FV Kema Sue

PUBLIC TESTIMONY SIGN-UP SHEET

Agenda Item: C-2 (c) GOA Pcod Sideboneds for FLH

NAME (PLEASE PRINT)		TESTIFYING ON BEHALF OF:
X 1	Scott Hansen & Doug Wells	Beauty Bay
X 2	Gregg Elwood	Alpine Cove
X 3	Joe Childers	Alpine Cove & Kema Sue
4	Jorg SCHMEISSER	KEMA SUE
5	Kenny Own and Chad See	Freezer Longline Coalition
6	Julie Miller	Kema Sue
7	LANDOFF ECHENEVIERIC	KEMA SUE
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NOTE to persons providing oral or written testimony to the Council: Section 307(1)(I) of the Magnuson-Stevens Fishery Conservation and Management Act prohibits any person " to knowingly and willfully submit to a Council, the Secretary, or the Governor of a State false information (including, but not limited to, false information regarding the capacity and extent to which a United State fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishing vessels of the United States) regarding any matter that the Council, Secretary, or Governor is considering in the course of carrying out this Act.