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December 3, 2013

Mr. Eric Olson, Chairman
North Pacific Fishery Management Council
605 W. 4th Ave, Suite 306
Anchorage, AK 99501-2252

RE: Agenda Item C-7, BSAI Specifications

Dear Chairman Olson,

Thank you for the opportunity to provide comments in regards to the North Pacific Fishery Management Council's (the Council) consideration of BSAI specifications (agenda item C-7) at its December 2013 Council meeting. On behalf of the Freezer Longline Coalition (FLC) I would like to provide an update to Council on the 2013 harvest of BSAI Greenland turbot.

In March 2013, FLC and representatives with the A80 sector, in conjunction with consultation from NMFS, reached a voluntary agreement on the harvest of Greenland turbot by the freezer longline and A80 sectors in 2013. The agreement was as follows:

2013 Greenland Turbot Allocation Agreement

- NMFS will immediately close the BSAI turbot fishery in upon the opening of the BSAI turbot fishery on May 1, 2013.
- The A80 fleet will take actions to limit turbot bycatch in the BS subarea as much as possible while fishing for arrowtooth and Kamchatka flounder.
- FLC vessels will refrain from targeting turbot in the BS subarea until September 1, 2013.
- On August 31, 2013, the A80 fleet will stop targeting arrowtooth and Kamchatka flounder in the BS subarea.
- On September 1, 2013, NMFS will open the BS subarea for directed fishing for turbot, assuming sufficient stock levels to open the fishery. NMFS will monitor catch and move to close the fishery when the BS turbot TAC (1610 MT; ITAC of 1369) is reached for the year.
- Any rollover from the unspecified reserve on the 2013 turbot allocation will be available after September 1, 2013.

At the April 2013 Council meeting, FLC member Dave Little of Clipper Seafoods testified that FLC hoped this agreement would result in the availability of approximately 800 MT of Greenland turbot for harvest by our fleet in the Bering Sea. This amount would ensure it would be economically sustainable for our fleet to participate in the fishery in 2013. To produce this amount, it would have been necessary for the A80 fleet to limit their bycatch in the Bering Sea to a total of 400-500 MT while targeting arrowtooth and Kamchatka flounder.

The FLC is appreciative of the efforts of the NMFS and the A80 sector to facilitate a BS Greenland turbot fishery for the freezer longliners in 2013. However, although both fleets honored the agreement and cooperated in facilitating the fishery, the results of the efforts were

somewhat disappointing for the freezer longliners. NMFS data shows that Greenland turbot bycatch in the Bering Sea totaled over 720 MT in 2013. Consequently, the freezer longline harvest for Greenland turbot was limited to less than 600 MT, a less than 50/50 split between the two sectors. While the 2014 TAC for Greenland turbot is likely to be similar to 2013, it is the FLCs hope that the freezer longline sector will have the opportunity for an increase in harvest over 2013 to better ensure a viable freezer longline fishery next year.

The FLC appreciates the Council's ongoing interest ensuring a viable Greenland turbot fishery for the freezer longline sector in the Bering Sea. We welcome your continued attention to this matter as Council considers allocations for the BSAI fisheries in 2014.

Sincerely,



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RE: Agenda Item C-7, BSAI Specifications

Dear Chairman Olson,

Thank you for the opportunity to provide comments in regards to the North Pacific Fishery Management Council's (the Council) consideration of BSAI specifications (agenda item C-7) at its December 2013 Council meeting. On behalf of the Freezer Longline Coalition (FLC) I would like to specifically address our strong concerns in regards to the anticipated BSAI Pacific cod (P-cod) split and its impact on the opportunity for FLC members to participate in the federal P-cod fishery in the Aleutian Islands (AI) in 2014 under the current default management measures approved by the Council in October 2011.

The FLC represents the owners and operators of the nearly 30 vessels that participate in the hook-and-line catcher processor (HAL CP) sector of the federal P-cod fishery in the Bering Sea and Aleutian Islands. FLC member companies are the pioneers of the HAL CP sector in Alaska and have over 30 years of history fishing for P-cod in the North Pacific. The HAL CP fleet is a P-cod single species directed fishery fleet, and, therefore, is nearly fully reliant on P-cod. P-cod catch by this hook-and-line fleet in the AI may be viewed by some as relatively small when compared to other fleets; however, these longliners rely almost exclusively on the catch of P-cod.

The AI P-cod fishery is important for FLC members as a whole as well as for individual member vessels within the fleet. For some FLC Members, up to 50% of their revenues were derived from AI P-cod prior to current SSL restrictions enacted for the AI under the interim final rule published in the Federal Register on December 13, 2010 (75 Fed. Reg. 77,535). While harvest is down in the AI with the SSL restrictions, AI P-cod remains an instrumental component of revenues for a number of FLC member companies. Members who harvest AI P-cod in the AI are skilled operators in these waters with decades of experience navigating and harvesting in the AI fishing grounds. This allows them to efficiently harvest P-cod in the AI and reduce their number of trips into the BS, which require more fuel and crew time. Importantly, AI P-cod is typically larger in size than those found in the BS and return stronger prices on the international market, creating unique benefits for operators who participate in the AI fishery.

The FLC appreciates Council's efforts to prepare for managing the BS and AI P-cod fisheries in advance of the anticipated split of the existing BSAI-wide fishery. We respect the Council's continued past efforts to develop a management plan for the AI fishery and the difficulties in accomplishing this objective. When Council approved a default management plan for the BS and AI fisheries following a split that would create an open access fishery in the AI, it was

acknowledged to be an imperfect solution, but the best option to ensure an opportunity for all sectors to participate in the AI fishery.

Recent developments impacting the AI P-cod fishery have brought to light a significant unintended consequence of the BSAI P-cod split. Specifically, the HAL CP sector will be shut out of the federal directed fishery for AI P-cod in 2014. This is a result of a confluence of factors that have created a small, open access fishery in the AI that is effectively open only to trawl vessels in the early months of the year. Council action to address this unintended consequence is necessary to ensure the HAL CP sector has an opportunity to participate in 2014 and in future years.

Based on discussions with NMFS In-Season Management, the following scenario appears likely in the AI P-cod fishery:

- NMFS will open the AI P-cod fishery for directed fishing in 2014. Under the Council's default management plan, this will be an open access fishery in the AI. However, given the small amount of fish available for harvest*and the existing SSL restrictions, the reality is there will very likely be no fish available for HAL CP vessels to participate in the fishery. Current SSL regulations prohibit HAL CPs from fishing in the AI until March 1st. Given the small amount of fish, it is almost certain the AI P-cod ITAC will be harvested by (predominantly) trawl CVs prior to that date. Trawl CVs (and one AFA trawl CP that targets P-cod) operate in the AI in the early part of the A season (trawl CVs season starts January 20). FLCs understanding is the trawl CVs generally begin fishing on about Feb. 1st, meaning they will have a full month to harvest the AI P-cod allocation. From discussions we've had, this would likely result in the full AI ITAC being harvested before March 1st and the HAL CP fleet being shut out of the AI fishery.

*Rough calculations for the AI ITAC is as follows:

- AI GHL: proposed combined 2014 BS and AI ABC (270,100 mt) x 3% = 8,103 mt
- AI ABC – AI GHL: AI ABC of 15,100 mt – AI GHL of 8,103 mt = 6,997 mt
- AI TAC: assuming (note: this isn't certain) that ABC=TAC in AI, then AI TAC = 6,997 mt
- AI ITAC: CDQ allocation of 10.7% = 749 mt; 6997 mt – 749 mt = 6,248 mt
 - Additionally, NMFS In-Season Management (Mary Furuness) has indicated they plan to continue setting aside a portion of the TAC for incidental catch. This, roughly, may be about 1500 mt (or more): 6,248 mt – 1800 mt = 4,448 mt (depending on incidental catch amount).

Given this scenario, FLC would like Council to work with NMFS and, as needed, the State of Alaska on interim steps to ensure HAL CP vessels have the ability to continue fishing in the AI, as many in our fleet have done for over 30 years. We would envision these steps as temporary solutions before a long-term fix is developed by Council, likely through an FMP amendment. Two potential actions for the Council to consider include:

- GHL reallocation: Council could allocate to the 2 million MT cap during the 2014 TAC specification process and communicate with NMFS in regards to an in-season adjustment to selected TACs to accommodate a potential reallocation of AI state waters P-cod GHL quota later in the year. This may be through an adjustment of the AI P-cod TACs, or TACs of other species that NMFS determines unlikely to be fully harvested. This action can be performed by the NMFS Alaska Region through notification in the Federal

Register. A reallocation to the federal fishery would be distributed through the allocation process, including the allocation of a share of the quota to the CDQ fishery. Any such reallocation of GHL would likely be dependent upon the Alaska Board of Fish acting to permit the transfer of remaining GHL back to the federal fishery.

There is precedent for the reallocation of the state waters GHL to the BSAI fishery. On September 1, 2006, ADF&G transferred 3.5 million pounds (1588 MT) of the 2006 B Season GHL to NMFS.¹ The 3.5 million pounds represented a significant portion of the initial 2006 B Season GHL for the fishery. This reallocation occurred at the end of the first season of the state waters P-cod GHL in the AI, established in February 2006. Based on discussions with NMFS, this reallocation was completed by NMFS reducing the 2006 TAC for BSAI P-cod from 194,000 MT to 188,180 MT, allowing for the reallocation of the 1588 MT to the fishery.

- P-cod incidental catch allowance: Alternatively, Council and NMFS may consider utilizing the P-cod incidental catch allowance (ICA) to better manage bycatch in all P-cod fisheries in the BSAI, including the state waters P-cod fisheries. One avenue to address the state waters P-cod fisheries may be to incorporate some or all of the state waters P-cod GHL to be allocated to the State of Alaska into the ICA. The GHL included in the ICA would then become part of the 2 million MT allocation limit imposed on the federal BSAI fisheries, allowing for better management of these fisheries, including related bycatch. During the course of the year, NMFS would transfer the GHL included in the ICA to the State as needed for the operation of the AI state waters P-cod fishery. GHL not harvested in the state waters fishery would remain in the ICA and be subject to allocation to the federal P-cod fisheries, at the discretion of NMFS.

An anticipated benefit of each of these actions is an increased amount of fish available for harvest in the AI P-cod fishery. ADF&G reports that the GHL in the AI state waters P-cod fishery has not been fully harvested in six of the eight years since the fishery was established in 2006, including the recently closed 2013 season. The most recent year the GHL was met was in 2008, but this can be attributed to HAL CP vessels being permitted to fish in state waters that year. This year's final harvest numbers are confidential due to the small number of vessels participating in the fishery. However, ADF&G documents suggest that over 3.5 million pounds (1,588 MT) were rolled over from the state waters "A" season to the "B" season in 2013, resulting in a "B" season fishery of over 9.5 million pounds (4,309 MT). Similar numbers were reported by ADF&G for 2012. In 2011, the last year that end-of-season harvest rates were released for the fishery, ADF&G reported a harvest of only 595,289 pounds (270 MT). While 2011 is likely a lower harvest level than can be reasonably be expected in future years, the figures suggest that there will likely continue to be unharvested GHL in the AI state waters P-cod fishery. Should this unharvested GHL be made available to the federal AI P-cod fishery, even a small amount of quota in the range of 1500-2000 MT would be likely be sufficient to enable HAL CP vessels to participate in the AI P-cod fishery in 2014.

Council may also recommend applying both of these actions to the GHL for the Bering Sea state waters P-cod fishery established by the BOF in October. This may allow for greater economic relief for the HAL CP sector and others affected by limited (or no) fishing opportunity in the AI, as it could allow for additional P-cod for all sectors to harvest in the Bering Sea. Should the BS

¹ ADF&G Fishery Management Report No. 12-38: Annual Management Report for Bering Sea-Aleutian Islands State-Waters Groundfish Fisheries and Groundfish Harvest from Parallel Seasons in 2011; Nov. 2012

GHL be included in the ICA, it would also provide NMFS and the Council with additional opportunity to manage bycatch all Bering Sea fisheries, state-waters included.

Long-term, FLC would like to see the Council develop a long-term solution to the HAL CP sector being subject to exclusion from the AI P-cod fishery in future years. Based on current projections and modeling, the ABC for AI P-cod is unlikely to be significantly different from 2014 for the foreseeable future. The AI P-cod SAFE presented at the November 2013 Plan Team meeting projects the 2015 ABC to be identical to 2014, at 15,100 MT. Given this, it's critical that a management plan be developed that ensures the HAL CP sector will have an opportunity to continue operating in the AI.

FLC recommends that Council initiate a discussion paper examining potential management strategies to ensure participation in the AI P-cod fishery by the HAL CP sector and others who have historically participated in the fishery. This paper would review previous efforts to develop a more defined management plan for the fishery under a BSAI split (some of which could be drawn from the April 2013 discussion paper titled "Overview of Apportionment of BSAI Pacific Cod Sector Allocations Between BS and AI Areas and AI Pacific Cod Processing Sideboards"), identify additional unintended consequences of the current, open access management plan, and examine elements of a future management plan for the fishery that would address adverse impacts on fishery participants.

We believe that now is an appropriate time for Council to revisit efforts to address management of the AI P-cod fishery. Efforts in previous years to take on a more ambitious management plan were tabled, in part, due to uncertainties about a number of elements that would impact a future AI P-cod fishery, including the amount of fish available following a split, SSL-related management measures, and what unintended consequences may emerge the confluence of these elements and the default management plan established by the Council. Today, many of the uncertainties surrounding these matters are resolved and unintended consequences are emerging that require the attention of Council. Action to move forward to develop a new management plan for the AI P-cod fishery should be a priority for Council and all stakeholders in the fishery.

Sincerely,



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December 3, 2013

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Dr. James Balsiger, Regional Administrator
NOAA Fisheries, Alaska Region
709 West Ninth Street
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Re: Agenda Item C-7, Groundfish Specifications; Bering Sea and Aleutian Islands Pacific cod ABC/TAC split

Dear Chairman Olson, Dr. Balsiger, and Council Members:

You have legal and scientific responsibilities to manage the stocks of Pacific cod in the Aleutian Islands and Bering Sea separately. The Aleutian Islands population is declining, and better management is needed to ensure that there are enough cod to support sustainable fisheries and fill Pacific cod's important role in the ecosystem. Debate about sector and processing allocations can no longer delay necessary steps—you must now take action to implement the Science and Statistical Committee's (SSC) recommendation that separate overfishing limits (OFLs) and acceptable biological catches (ABCs) be established for the 2014 fishing season. We urge the National Marine Fisheries Service (NMFS) and the Council to take this opportunity to improve ecosystem-based fishery management in the Aleutian Islands.

The law explicitly requires NMFS to prevent overfishing by implementing conservation and management measures for fisheries. *See, e.g.*, 16 U.S.C. §§ 1801(a)(6) & 1851(a)(1). In fulfilling this obligation, the agency must “develop annual catch limits for each of its managed fisheries that may not exceed the fishing level recommendations of its [SSC].” *Id.* § 1852(h)(6). The Council has been aware for several years that the SSC recommended setting separate OFLs and ABCs for Aleutian Islands and Bering Sea Pacific cod. As far back as 2006, the Council was poised to take action to address the industry allocation issues associated with splitting management of cod. It declined to do so during final action on Amendment 85.

The Groundfish Plan Team has evaluated four stock assessment models for Aleutian Islands cod: two “tier 5” models that use only survey biomass data, and two age-structured “tier 3” models that use a greater number of parameters.¹ The preliminary maximum permissible Aleutian Islands ABCs calculated from the models ranged from approximately 13,000 mt to 17,000 mt. There is no justification for allowing Pacific cod catch in the Aleutian Islands to exceed these recommendations, and the declining trend of Pacific cod in the trawl survey biomass estimates warrant a lower TAC. A lower TAC is also needed to allow for the recovery of the endangered western population of Steller sea lions, one of the

¹ Thompson, G., and W. Palsson. November 2013 Plan Team Draft. Chapter 2A: Assessment of the Pacific Cod Stock in the Aleutian Islands.

Oceana Comments on Pacific Cod ABC/TAC Split
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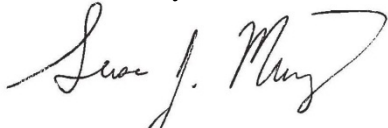
Pacific cod's principal predators. In addition to the declining cod population, the 2012 survey biomass of walleye pollock, another one of the Steller sea lions' primary prey, was the lowest ever recorded.² Since none of the stock assessment models explicitly account for the prey needs of Steller sea lions, we recommend reducing the TAC from the model's lowest ABC as a precautionary measure.

Once separate, precautionary measures—OFL, ABC, and TAC—for Aleutian Pacific cod are set, NMFS and the Council must take a hard look at the ecological impacts that fishing for cod is having in the Aleutian Islands. An intense trawl fishery targeting spawning aggregations is not sustainable. Fisheries targeting spawning aggregations can disrupt the behavior of spawning, disperse schools, and potentially decrease reproductive output of the stock.³ Further, skipped spawning may result in overestimated stock production, and may be more prevalent in teleost fish than previously thought.⁴ Taken together, spawning disruption and skipped spawning could have serious implications for current fishery management assumptions and lack of recruitment to the stock.

Finally, we are deeply disturbed by the increase in inadequately controlled and monitored fishing for Pacific cod in the State waters in the Aleutian Islands. These "parallel" fisheries have contributed to the degradation of seafloor habitat and to imbalances in the seasonal and spatial prey field for the endangered western population of Steller sea lions. We encourage NMFS and the Council to work with the State of Alaska to help determine a sustainable Guideline Harvest Limit (GHL) and better management for Pacific cod in the nearshore waters of the Aleutian Islands. The harvest limit should be responsive to the ecological conditions and status of the cod stock in the Aleutian Islands, as separate from the Bering Sea stock.

We look forward to continuing to work with you on this issue.

Sincerely,



Susan Murray
Deputy Vice President, Pacific
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² Barbeaux, S., J. Ianelli, and W. Palsson. Chapter 1A: Assessment of the pollock stock in the Aleutian Islands. November 2013 Plan Team Draft.

³ Dean, J.M., W.S. Hoffman, and M.P. Armstrong. 2012. Disruption of an Atlantic Cod Spawning Aggregation Resulting from the Opening of a Directed Gill-Net Fishery. *North American Journal of Fisheries Management* 32: 124–134.

⁴ Skjæraasena, J.,E., et.al. 2012. Frequent skipped spawning in the world's largest cod population. *PNAS*, Vol. 29, no. 23.