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Working the interface of science and policy toward thriving fishing communities and healthy ocean ecosystems.

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RE: C6 Pelagic Trawl Gear Definition

Madam Chair, Dr. Kurland, Members of the Council,

Concerns over the definition of "pelagic" trawls have been circulating in the Alaska fishing community for many years but specific technical issues were finally brought before the Council by the Office of Law Enforcement (OLE) at the June 2023 Council meeting in Sitka with clear complications involving the enforceability of the regulations. At that same meeting, it was brought to your attention that the footropes of the nets being fished were more than three times the lengths described in Council documents – and that, given the sheer physics of the catenary of such long and heavy cables, it was impossible to fish those gargantuan nets off the bottom in the shallow waters of Alaska's continental shelves. This all came on the heels of data released earlier in the fall by the FAST Lab of Alaska Pacific University revealing the true amount of time "pelagic" gear was actually fished hard on the bottom in the Bering Sea.

The Council demurred and convened a meeting in September 2023 to consider the effectiveness of the "performance standard" requirements for "pelagic" trawl gear which have been considered by this management arena to be the failsafe for over 30 years assumed to ensure minimum bottom contact during "pelagic" trawl fishing activity. At that meeting, it quickly became clear that we could not have a meaningful discussion about performance standards of "pelagic" gear without incorporating a definition of the parameters of the gear itself. As one fisherman clearly said during the meeting: "When I fish for pollock I fish on the bottom."

It took until February 2024 for the Council to request that NOAA staff review the definition of "pelagic" trawl gear but limited that request strictly to the minimum practical changes needed to

bring current regulations to align with the status quo, which has brought us to today. None of the actions by the Council in the last 18 months has in any way provided incentives for the industry to change their behavior relative to known "pelagic" trawl impacts on the ocean floor. The AKRO staff, however, have done an excellent job of outlining the decision matrix for the task you assigned them, as well as laying out the backdrop from which to move beyond these minor issues to address the real "elephant in the room" – protecting the integrity of the benthic habitat of the continental shelf which is foundational to the future recovery, health and productivity of these sacred and exquisite marine ecosystems.

A review of the fundamental principles of biological oceanography reveals why the benthic ecosystems of our vast continental shelves in the Gulf of Alaska and the Bering Sea are foundational to the great abundance that we rely upon year after year. A major portion of the relatively shallow shelf falls within the photic zone, meaning sunlight penetrates to the bottom, especially in the summer months, enhancing high productivity. In addition, the rich soup of pelagic planktonic life slowly drifts down to mingle with and feed the equally rich and infinitely diverse benthic planktonic system associated with the 2 to 3 meters above the ocean floor. This microbiota also becomes integrated into the deeper layers of benthic sediment supporting abundant epi- and endo-benthic fauna. We have only begun to scratch the surface of our knowledge and understanding of how these benthic-pelagic micro-planktonic linkages work – and which hopefully hold keys to climate change resiliency. What we do know for certain, however, is that the essential life history stages of the vast majority of both commercial and non-commercial species have critical connections to and depend heavily upon the benthic ecosystems.

Pacific cod, ling cod, Atka mackerel, octopus, squid, and Neptunid snails, among others, spawn on the bottom or vertical surfaces, and four of those six are bottom foragers. Internally incubated rockfish larvae head straight to the bottom at parturition to hide and forage among living benthic structures including corals. Skates leave their egg cases on the bottom. Crabs and shrimp are obligate bottom dwellers that brood their eggs on their abdomens and then release eyed zoea into the benthic stew to eventually settle into optimum nursery areas that they share with young-of-the-year halibut and other flatfishes. Yes, this is a simplified rendition of complex recruitment processes (not recruitment "events") that have evolved over millennia in the daily dance with the physical and chemical conditions of the oceans. But the common denominator is the dynamic benthic environment of the continental shelf.

The most dramatic examples of this rich system are revealed when the humpback and gray whales migrate to the eelgrass beds of the central northern Bering Sea to scoop up and filter bottom sediments and capture that nutritious food. It appears, however, that those annual feeding beds have been altered over the last decade or two.

For more than 30 years, the so-called “pelagic” trawl fleet has been able to orchestrate a dance between an approach concocted in 1993 to prescribe a trawl performance standard defined by weak and ineffective regulations, and a broad definition of pelagic trawl gear that OLE has found frustratingly unenforceable, allowing “pelagic” gear to plow through sensitive benthic habitat closed to bottom trawling. It is heartbreaking to attend a Crab Plan Team meeting and hear a member refer to a chart, report that an area is closed to bottom trawling, and the Plan Team conclude that the precipitous decline in the number of crabs in the area could not be attributable to trawl bycatch.

It is past time that this dance came to an end. “Pelagic” trawls were initially sold as gear that fished off the bottom. A well-thought-out, practical definition of trawl gear would bracket and define its performance. This is likely the only place in the traditional fisheries management arena where the regulatory definition of a gear type outlines minimum but not maximum size and structure. To risk the rhetorical: What type of management is that? Is this an effective way to understand and quantify effort? Why have the “pelagic” trawl vessels gotten away with an “Anything goes; The sky’s the limit” pass for so long? Every major and iconic fishery in Alaska has been in serious decline over the last 20+ years except for the pollock and rockfish pelagic trawl fisheries, but somehow the Council isn’t making the connection. The stale excuse of “regime shift”, or now “climate change”, is simply a red herring to obfuscate bycatch and habitat destruction and shore up a false image of benign behavior. According to this current C6 RIR Report, there are 677 small entity trawlers in the GOA and 130 in the Bering Sea, all operating in ways that allow them to fish hard on benthic habitat with no repercussions. Add climate change to the mix and there should be a real impetus to change.

The Council’s Vision Statement includes: “The North Pacific Fishery Management Council has an important stewardship responsibility for these resources, their productivity, and their sustainability for future generations.”

For the Council to meet this obligation, it must move quickly in “practicable” ways to eliminate the bycatch and habitat destruction endemic to Alaska trawl fisheries, particularly “pelagic” trawls. It is practicable to replace the entire notion and definition of “pelagic” trawl with defined specific parameters for midwater trawls that must be configured with footropes and fishing lines that will part or be rendered unfishable if they contact the bottom. West Coast fisheries have a definition for midwater trawls that can be used as a template to develop a definition specific to Alaska. This a powerful and practical approach to incentivizing fishermen to keep their nets off the bottom. Functionally, these nets would need to be much smaller than the pelagic nets deployed today and require developing specific skill sets to fish successfully. However, the majority of the current bycatch and habitat concerns with “pelagic” trawls would be eliminated. Salmon and herring bycatch may likely be either smaller or easier to avoid with smaller nets.

As mentioned in previous testimony last June, a Gear Registry that measures and certifies the midwater trawl being fished complies with regulations, accompanied with steep fines for noncompliance, would go a long way to improve enforcement and ease OLE's job.

But again, right now we are kicking the can down the road avoiding any significant action on curtailing habitat destruction by "pelagic" gear. This arcane management system is so excessively hamstrung it is impossible to get any effective conservation proposals advanced while Alaska marine ecosystems suffer under the weight of a 1950s approach to exploiting the seas. A very cumbersome and ineffective management regime that big industry and their lobbyists take full advantage of.

On the subject of transparency, the list of contributors to this agenda item looks like the list of who's who in the rarified world of Alaska trawl fisheries lobbyists and contractors. This is a second call for the process to include someone from outside that circle – informed representatives from public interest groups and/or willing members of a non-trawl fishing sector.

Finally, on a different item, I recently viewed a video of two small seals being rescued on a beach from entanglement in discarded trawl mesh. The link is no longer active or I would include it here. I regularly find these kinds of videos on my Instagram feed, and they are never the same ones. The amount of discarded trawl and other fishing gear that is floating around in our oceans is unconscionable. It is horrifying to consider the number of animals that don't get rescued from such an unfortunate encounter with this different type of fishery discard.

This is clearly a management issue generated by the trawl industry. Since the Council's job is to manage all parts of commercial fisheries, and discarded trawl gear comprises the bulk of the weight and volume of marine debris in the North Pacific, it is incumbent upon the Council to take this issue seriously. NOAA's Office of Marine Debris has the expertise required for cleanup activities, but the Council needs to reach out and initiate a study on the extent of the problem, understand its causes and possible solutions, and how to educate and engage fishermen in creating solutions. Large areas of the Alaskan continental shelf are now cluttered with fishing debris. This scourge can be eliminated. Our Ocean is not a dump. I would happily participate in any effort the Council chooses to initiate to end Alaska's contribution to this global problem.

Sincerely,