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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

ASSOCIATION OF VILLAGE COUNCIL)	
PRESIDENTS, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 3:23-cv-00074-SLG
)	
NATIONAL MARINE FISHERIES)	
SERVICE, <i>et al.</i> ,)	
)	
Defendants.)	
)	

FEDERAL DEFENDANTS’ ANSWER

Defendants National Marine Fisheries Service (“NMFS”), United States Department of Commerce, Gina M. Raimondo, in her official capacity as Secretary of Commerce, and Samuel D. Rauch, III, in his official capacity as Deputy Assistant Administrator for Regulatory Programs (collectively referred to as “Federal Defendants”), through counsel, answer the complaint in this case dated April 7, 2023, ECF No. 1, as follows. The headings and numbered paragraphs below correspond to the numbered paragraphs in the Complaint.

Federal Defendants deny each and every allegation in the Complaint that is not specifically admitted in this Answer.

INTRODUCTION

1. The allegations in Paragraph 1 contain characterizations of Plaintiffs' case, to which no response is required. To the extent a response is required, Federal Defendants deny the allegations.

2. Federal Defendants admit that the ecosystems in the Bering Sea and Aleutian Islands have experienced change. The remaining allegations in Paragraph 2 are vague and ambiguous. Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis.

3. The allegations in Paragraph 3 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis.

4. Federal Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 4 and deny them on that basis.

5. The allegations in Paragraph 5 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis.

6. The allegations in the first, third, and fourth sentences in Paragraph 6 are conclusions of law, to which no response is required. To the extent a response is required, Federal Defendants deny the allegations. Federal Defendants deny the remaining allegations in Paragraph 6.

JURISDICTION AND VENUE

7. The allegations in Paragraph 7 are conclusions of law, to which no response is required. To the extent a response is required, Federal Defendants deny the allegations.

8. The allegations in Paragraph 8 are conclusions of law, to which no response is required. To the extent a response is required, Federal Defendants deny the allegations.

PLAINTIFFS

9. Federal Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 9 and deny them on that basis.

10. Federal Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 10 and deny them on that basis.

11. Federal Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 11 and deny them on that basis.

12. Federal Defendants admit the allegations in the third sentence in Paragraph 12 that the Association of Village Council Presidents (“AVCP”) submitted written comments to NMFS on the proposed 2023-2024 groundfish harvest specifications for the Bering Sea and Aleutian Islands (“BSAI”). Federal Defendants also admit that AVCP participated in a tribal consultation with NMFS on February 3, 2023, on the proposed 2023-2024 BSAI groundfish harvest specifications. To the extent the allegations in Paragraph 12 characterize the comments submitted by AVCP to the North Pacific Fishery Management Council (“Council”) and NMFS, those comments speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those comments. Federal Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 12 and deny them on that basis.

13. Federal Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 13 and deny them on that basis.

14. Federal Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 14 and deny them on that basis.

15. Federal Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 15 and deny them on that basis.

16. Federal Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 16 and deny them on that basis.

17. Federal Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 17 and deny them on that basis.

18. Federal Defendants admit that the Tanana Chiefs Conference (“TCC”) participated in a tribal consultation with NMFS on February 3, 2023, on the proposed 2023-2024 BSAI groundfish harvest specifications. To the extent the allegations in Paragraph 18 characterize written comments submitted by TCC, those comments speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those comments. Federal Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 18 and deny them on that basis.

19. Federal Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence in Paragraph 19 and deny them on that basis. The allegations in the second sentence in Paragraph 19 are conclusions of law, to which no response is required. To the extent a response is required, Federal Defendants deny the allegations.

20. Federal Defendants lack knowledge or information sufficient to form a belief as to

the truth of the allegations in the first sentence in Paragraph 20 and deny them on that basis. The allegations in the second and third sentences in Paragraph 20 are conclusions of law, to which no response is required. To the extent a response is required, Federal Defendants deny the allegations.

DEFENDANTS

21. Federal Defendants admit that NMFS is a federal agency within the United States Department of Commerce. Federal Defendants admit the allegations in the second and third sentences in Paragraph 21. To the extent these allegations characterize Federal Defendants' responsibilities under relevant legal authorities, those legal authorities speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those legal authorities.

22. Federal Defendants deny the allegations in Paragraph 22 as stated.

23. Federal Defendants admit the allegations in the first and second sentences in Paragraph 23. Federal Defendants deny the allegations in the third sentence in Paragraph 23 as stated.

24. Federal Defendants admit the allegations in Paragraph 24.

STATEMENT OF FACTS

A. The groundfish fisheries of the Bering Sea and Aleutian Islands

25. The allegations in Paragraph 25 characterize the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area ("BSAI FMP") and implementing regulations, which speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of the BSAI FMP and implementing regulations.

26. The allegations in Paragraph 26 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis. To the extent the allegations characterize the BSAI FMP, implementing regulations, and the annual BSAI groundfish harvest specifications, those documents speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of the BSAI FMP, implementing regulations, and the annual BSAI groundfish harvest specifications.

27. Federal Defendants admit that pollock (*Gadus chalcogrammus*) and Pacific cod (*Gadus microcephalus*) are in the same family. The remaining allegations in Paragraph 27 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis. To the extent the allegations characterize the Stock Assessment and Fishery Evaluation (“SAFE”) for pollock, other NMFS documents, and scientific studies, those documents speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those documents.

28. The allegations in Paragraph 28 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis. To the extent the allegations characterize the pollock SAFE, other NMFS documents, and scientific studies, those documents speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those documents.

29. The allegations in Paragraph 29 characterize the BSAI FMP and implementing regulations, which speak for themselves and are the best evidence of their content. Federal

Defendants deny any allegations contrary to the plain language, meaning, or context of the BSAI FMP and implementing regulations.

30. The allegations in Paragraph 30 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis.

31. Federal Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence in Paragraph 31 and deny them on that basis. The allegations in the second sentence in Paragraph 31 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis.

32. The allegations in Paragraph 32 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis. To the extent the allegations in Paragraph 32 characterize management reports compiled by National Marine Fisheries Service, those reports speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those reports.

33. The allegations in Paragraph 33 characterize the BSAI FMP and implementing regulations, which speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of the BSAI FMP and implementing regulations.

34. The allegations in Paragraph 34 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis.

35. The allegations in Paragraph 35 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis.

B. The harvest specifications process and the 2023-2024 groundfish harvest specifications

36. Federal Defendants admit the allegations in Paragraph 36.

37. The allegations in Paragraph 37 characterize the BSAI FMP, implementing regulations, and the final 2023-2024 BSAI groundfish harvest specifications, which speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of the BSAI FMP, implementing regulations, and the final 2023-2024 BSAI groundfish harvest specifications.

38. Federal Defendants deny the allegations in Paragraph 38.

39. The allegations in Paragraph 39 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis.

40. The allegations in Paragraph 40 characterize the BSAI FMP, implementing regulations, and the annual BSAI groundfish harvest specifications, which speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of the BSAI FMP, implementing regulations, and the annual BSAI groundfish harvest specifications.

41. The allegations in Paragraph 41 seem to characterize the Magnuson-Stevens Fishery Conservation and Management Act (“MSA”), implementing regulations at 50 CFR part 600 and 50 CFR part 679, and the BSAI FMP, which speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain

language, meaning, or context of the MSA, implementing regulations, and the BSAI FMP.

42. Federal Defendants deny the allegations in Paragraph 42 as stated.

43. The allegations in Paragraph 43 characterize the BSAI FMP, implementing regulations, and the annual BSAI groundfish harvest specifications, which speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of the BSAI FMP, implementing regulations, and the annual BSAI groundfish harvest specifications.

44. The allegations in Paragraph 44 characterize the final 2022-2023 BSAI groundfish harvest specifications and the final 2023-2024 BSAI groundfish harvest specifications, which speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of these documents.

45. The allegations in Paragraph 45 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis.

C. Salmon people: food security and traditional ways of life

46. Federal Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 46 and deny them on that basis.

47. Federal Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 47 and deny them on that basis.

48. Federal Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 48 and deny them on that basis.

49. The allegations in Paragraph 49 are vague and ambiguous; Federal Defendants

therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis.

50. Federal Defendants admit that federal fisheries disasters have been declared for fisheries in Alaska. To the extent the allegations in Paragraph 50 characterize federal fishery disaster declarations, those declarations speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those documents.

51. The allegations in Paragraph 51 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis.

52. The allegations in Paragraph 52 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis.

53. The allegations in Paragraph 53 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis.

54. Federal Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 54 and deny them on that basis.

55. Federal Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 55 and deny them on that basis.

56. The allegations in the first phrase in Paragraph 56 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of those allegations and deny them on that basis. Federal Defendants lack knowledge or

information sufficient to form a belief as to the truth of the allegations in the second phrase in Paragraph 56 and deny them on that basis.

57. Federal Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 57 and deny them on that basis.

58. Federal Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the first phrase in Paragraph 58 and deny them on that basis. The allegations in the second phrase in Paragraph 58 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis.

59. The allegations in Paragraph 59 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis.

60. The allegations in Paragraph 60 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis. To the extent the allegations in Paragraph 60 characterize management reports compiled by NMFS, other NMFS documents, and genetic studies, those documents speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those documents.

61. The allegations in Paragraph 61 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis. To the extent the allegations in Paragraph 61 characterize management reports compiled by NMFS, other NMFS documents, and genetic

studies, those reports, documents, and studies speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those reports, documents, and studies.

62. The allegations in Paragraph 62 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis. To the extent the allegations in Paragraph 62 characterize management reports compiled by NMFS, other NMFS documents, and genetic studies, those reports, documents, and studies speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those reports, documents, and studies.

63. Federal Defendants admit that a variety of factors are likely contributing to declines for certain salmon species in certain areas of Alaska. The remaining allegations in Paragraph 63 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis.

64. The allegations in Paragraph 64 are w vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis.

65. The allegations in Paragraph 65 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis. The allegations in Paragraph 65 also are Plaintiffs' characterization of their case, to which no response is required. To the extent a response is required, Federal Defendants deny the allegations.

D. The rapidly changing Bering Sea and Aleutian Islands ecosystem

66. The allegations in Paragraph 66 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis. To the extent the allegations in Paragraph 66 characterize the BSAI FMP, the SAFE reports for BSAI groundfish, other NMFS documents, and scientific studies, those documents speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those documents.

67. The allegations in Paragraph 67 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis. The allegations in Paragraph 67 are also conclusions of law, to which no response is required. To the extent a response is required, Federal Defendants deny the allegations.

68. The allegations in Paragraph 68 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis. To the extent the allegations in Paragraph 68 characterize the SAFE reports for BSAI groundfish, BSAI ecosystem status reports, the 2023 supplementary information report for the Alaska Groundfish Harvest specifications (“2023 supplementary information report”), other NMFS documents, and scientific studies, those documents speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those documents.

69. The allegations in Paragraph 69 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the

allegations and deny them on that basis. To the extent the allegations in Paragraph 69 characterize the SAFE reports for BSAI groundfish, BSAI ecosystem status reports, the 2023 supplementary information report, other NMFS documents, and scientific studies, those documents speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those documents.

70. The allegations in Paragraph 70 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis. To the extent the allegations in Paragraph 70 characterize the SAFE reports for BSAI groundfish, BSAI ecosystem status reports, the 2023 supplementary information report, other NMFS documents, and scientific studies, those documents speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those documents.

71. The allegations in Paragraph 71 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis. To the extent the allegations in Paragraph 71 characterize the SAFE reports for BSAI groundfish, BSAI ecosystem status reports, the 2023 supplementary information report, other NMFS documents, and scientific studies, those documents speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those documents.

72. The allegations in Paragraph 72 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis. To the extent the allegations in Paragraph 72 characterize the SAFE reports for BSAI groundfish, BSAI ecosystem status reports, the 2023

supplementary information report, other NMFS documents, and scientific studies, those documents speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those documents.

73. The allegations in Paragraph 73 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis. To the extent the allegations in Paragraph 73 characterize the SAFE reports for BSAI groundfish, BSAI ecosystem status reports, the 2023 supplementary information report, other NMFS documents, and scientific studies, those documents speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those documents.

74. The allegations in Paragraph 74 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis. To the extent the allegations in Paragraph 74 characterize the SAFE reports for BSAI groundfish, BSAI ecosystem status reports, the 2023 supplementary information report, other NMFS documents, and scientific studies, those documents speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those documents.

75. The allegations in Paragraph 75 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis. To the extent the allegations in Paragraph 75 characterize the SAFE reports for BSAI groundfish, BSAI ecosystem status reports, the 2023 supplementary information report, other NMFS documents, and scientific studies, those documents speak for themselves and are the best evidence of their content. Federal Defendants

deny any allegations contrary to the plain language, meaning, or context of those documents.

76. The allegations in Paragraph 76 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis. To the extent the allegations in Paragraph 76 characterize the SAFE reports for BSAI groundfish, BSAI ecosystem status reports, the 2023 supplementary information report, other NMFS documents, and scientific studies, those documents speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those documents.

77. The allegations in Paragraph 77 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis. To the extent the allegations in Paragraph 77 characterize the SAFE reports for BSAI groundfish, BSAI ecosystem status reports, the 2023 supplementary information report, other NMFS documents, and scientific studies, those documents speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those documents.

78. The allegations in Paragraph 78 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis. To the extent the allegations in Paragraph 78 characterize the SAFE reports for BSAI groundfish, BSAI ecosystem status reports, the 2023 supplementary information report, other NMFS documents, and scientific studies, those documents speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those documents.

79. The allegations in Paragraph 79 are vague and ambiguous; Federal Defendants

therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis. To the extent the allegations in Paragraph 79 characterize the SAFE reports for BSAI groundfish, BSAI ecosystem status reports, the 2023 supplementary information report, other NMFS documents, and scientific studies, those documents speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those documents.

80. Federal Defendants admit that the Bristol Bay red king crab fishery was closed in 2021/2022 and 2022/2023 and that the Eastern Bering Sea snow crab fishery was closed in 2022/2023. Federal Defendants admit that the Secretary of Commerce declared a federal fishery disaster for the 2022/2023 Bristol Bay Red King Crab and Bering Sea Snow Crab fisheries and for the 2021/2022 Bering Sea Snow Crab, Bering Sea Tanner crab, and Bristol Bay Red King crab fisheries. The remaining allegations in Paragraph 80 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis.

81. The allegations in Paragraph 81 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis. To the extent the allegations in Paragraph 81 characterize the Stock Assessment and Fishery Evaluation report for the King and Tanner Crab Fisheries of the BSAI Regions, the BSAI ecosystem status reports, other NMFS documents, and scientific studies, those documents speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those documents.

82. Federal Defendants admit that some vessels targeting groundfish incidentally

catch crab species and that unobserved mortality does occur. The remaining allegations in Paragraph 82 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis. To the extent the allegations in Paragraph 82 characterize SAFE reports for BSAI crab, other NMFS documents, and scientific studies, those documents speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those documents.

83. The allegations in Paragraph 83 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis. To the extent the allegations in Paragraph 83 characterize the SAFE reports for BSAI groundfish, BSAI ecosystem status reports, the 2023 supplementary information report, other NMFS documents, and scientific studies, those documents speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those documents.

84. Federal Defendants admit that the NMFS has declared unusual mortality events for some marine mammal species in areas off Alaska. To the extent the allegations in Paragraph 84 characterize the status and outcomes of investigations into the unusual mortality events, those NMFS documents speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those documents.

85. The allegations in Paragraph 85 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis.

86. The allegations in Paragraph 86 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis.

87. The allegations in Paragraph 87 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis. To the extent the allegations in Paragraph 87 characterize NMFS documents and scientific studies, those documents and studies speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those documents and studies.

88. The allegations in Paragraph 88 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis. To the extent the allegations in Paragraph 88 characterize NMFS documents and scientific studies, those documents and studies speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those documents and studies.

89. The allegations in Paragraph 89 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis. To the extent the allegations in Paragraph 89 characterize NMFS documents, expeditions, and studies, those documents, expeditions, and studies speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those documents, expeditions, and studies.

90. Federal Defendants admit that the ecosystems in the Bering Sea and Aleutian

Islands have experienced change. The remaining allegations in the first sentence in Paragraph 90 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis. Federal Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the second sentence in Paragraph 90 and deny them on that basis.

91. The allegations in Paragraph 91 are conclusions of law, to which no response is required. To the extent a response is required, Federal Defendants deny the allegations.

92. Federal Defendants admit the allegations in the first sentence in Paragraph 92. The allegations in the second sentence in Paragraph 92 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis.

93. Federal Defendants deny the allegations in Paragraph 93.

94. Federal Defendants deny the allegations in Paragraph 94.

95. Federal Defendants admit that groundfish fisheries incidentally catch non-target species and can affect species, habitat, and the ecosystem. The remaining allegations in Paragraph 95 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis. To the extent the remaining allegations in Paragraph 95 characterize the SAFE reports for BSAI groundfish, BSAI ecosystem status reports, the 2023 supplementary information report, other NMFS documents, and scientific studies, those documents speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those documents.

96. The allegations in Paragraph 96 are vague and ambiguous; Federal Defendants

therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis. To the extent the allegations in Paragraph 96 characterize the SAFE reports for BSAI groundfish, BSAI ecosystem status reports, the 2023 supplementary information report, other NMFS documents, and scientific studies, those documents speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those documents.

E. NEPA analysis for the harvest specifications decision and Groundfish Fisheries Management Plan

97. The allegations in the first sentence in Paragraph 97 characterize the 2007 Final Environmental Impact Statement for the Alaska Groundfish Harvest Specifications (“2007 Groundfish Specifications EIS”), the BSAI FMP and its implementing regulations, and the annual BSAI groundfish harvest specifications, which speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those documents. The allegations in the second sentence in Paragraph 97 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis.

98. The allegations in Paragraph 98 characterize the 2007 Groundfish Specifications EIS, which speaks for itself and is the best evidence of its content. Federal Defendants deny any allegations contrary to its plain language, meaning, or context.

99. The allegations in the first sentence in Paragraph 99 characterize the annual supplementary information reports prepared by NMFS, which speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to their plain language, meaning, or context of those documents. Federal Defendants admit the allegations in

the second sentence in Paragraph 99.

100. The allegations in Paragraph 100 characterize the 2023 supplementary information report, which speaks for itself and is the best evidence of its content. Federal Defendants deny any allegations contrary to its plain language, meaning, or context.

101. The allegations in Paragraph 101 characterize the 2023 supplementary information report, which speaks for itself and is the best evidence of its content. Federal Defendants deny any allegations contrary to its plain language, meaning, or context.

102. The allegations in Paragraph 102 characterize the SAFE reports for BSAI groundfish, which speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those documents. The allegations in the first sentence in Paragraph 102 are also conclusions of law, to which no response is required. To the extent a response is required, Federal Defendants deny the allegations.

103. The allegations in Paragraph 103 characterize the 2023 supplementary information report, which speaks for itself and is the best evidence of its content. Federal Defendants deny any allegations contrary to its plain language, meaning, or context.

104. The allegations in Paragraph 104 characterize the 2007 Groundfish Specifications EIS, which speaks for itself and is the best evidence of its content. Federal Defendants deny any allegations contrary to its plain language, meaning, or context.

105. The allegations in Paragraph 105 characterize the 2004 Programmatic Supplemental Environmental Impact Statement for the Alaska Groundfish Fisheries (“2004 Groundfish FMPs EIS”), the BSAI FMP, and the Fishery Management Plan for Groundfish of the Gulf of Alaska, which speak for themselves and are the best evidence of their content.

Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those documents.

106. The allegations in Paragraph 106 characterize the BSAI FMP, which speaks for itself and is the best evidence of its content. Federal Defendants deny any allegations contrary to its plain language, meaning, or context.

107. The allegations in Paragraph 107 characterize and quote the BSAI FMP and federal regulations at 50 CFR part 600 and 50 CFR part 679, which speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those documents and regulations.

108. The allegations in Paragraph 108 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis.

109. The allegations in Paragraph 109 characterize the 2015 supplemental information report for the 2004 Groundfish FMPs EIS, which speaks for itself and is the best evidence of its content. Federal Defendants deny any allegations contrary to its plain language, meaning, or context.

110. The allegations in Paragraph 110 characterize the 2015 supplemental information report for the 2004 Groundfish FMPs EIS, which speaks for itself and is the best evidence of its content. Federal Defendants deny any allegations contrary to its plain language, meaning, or context.

111. Federal Defendants admit that on February 11, 2023, the North Pacific Fishery Management Council initiated a process to consider a new programmatic EIS. To the extent that allegations in Paragraph 111 characterize the Council's motion, the motion speaks for itself and

is the best evidence of its content. Federal Defendants deny any allegations contrary to its plain language, meaning, or context.

112. Federal Defendants deny the allegations in Paragraph 112.

113. Federal Defendants admit the allegations in Paragraph 113.

114. The allegations in Paragraph 114 are conclusions of law, to which no response is required. To the extent a response is required, Federal Defendants deny the allegations.

115. Federal Defendants admit that the ecosystems in the Bering Sea and Aleutian Islands have experienced change. The remaining allegations in Paragraph 115 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis.

CLAIMS FOR RELIEF

Count I

(Failure to analyze environmental impacts of harvest specifications decision as required under NEPA)

116. Federal Defendants incorporate by reference all preceding paragraphs of this Answer.

117. The allegations in Paragraph 117 purport to characterize the National Environmental Policy Act (“NEPA”), which speaks for itself and is the best evidence of its content. Federal Defendants deny any allegations contrary to the plain language, meaning, and context of that act.

118. The allegations in Paragraph 118 are conclusions of law, to which no response is required. To the extent a response is required, Federal Defendants deny the allegations.

119. The allegations in the first sentence in Paragraph 119 characterize the final 2023-2024 BSAI groundfish harvest specifications, the BSAI FMP, and federal regulations at 50 CFR

part 679, which speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those documents. The allegations in the second sentence in Paragraph 119 are conclusions of law, to which no response is required. To the extent a response is required, Federal Defendants deny the allegations.

120. The allegations in Paragraph 120 characterize the final 2023-2024 BSAI groundfish harvest specifications, 2007 Groundfish Specifications EIS, and 2023 supplementary information report, which speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those documents.

121. The allegations in Paragraph 121 characterize the final 2023-2024 BSAI groundfish harvest specifications, 2007 Groundfish Specifications EIS, and 2023 supplementary information report, which speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those documents.

122. Federal Defendants admit that the ecosystems in the Bering Sea and Aleutian Islands have experienced change. The remaining allegations in Paragraph 122 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis.

123. The allegations in Paragraph 123 are conclusions of law, to which no response is required. To the extent a response is required, Federal Defendants deny the allegations.

124. Federal Defendants admit that some fisheries management decisions may affect the marine ecosystem, but Federal Defendants deny the remaining allegations in Paragraph 124.

125. The allegations in Paragraph 125 characterize the final 2023-2024 BSAI groundfish harvest specifications, 2007 Groundfish Specifications EIS, and 2023 supplementary information report, which speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those documents.

126. The allegations in Paragraph 126 are conclusions of law, to which no response is required. To the extent a response is required, Federal Defendants deny the allegations.

Count II
(Failure to complete a supplemental environmental impact statement analyzing the effects of the groundfish fishery management program as required under NEPA)

127. Federal Defendants incorporate by reference all preceding paragraphs of this Answer.

128. The allegations in Paragraph 128 characterize and quote NEPA, which speaks for itself and is the best evidence of its content. Federal Defendants deny any allegations contrary to its plain language, meaning, and context.

129. The allegations in Paragraph 129 characterize and quote NEPA's implementing regulations, which speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those regulations.

130. The allegations in Paragraph 130 characterize the final 2023-2024 BSAI groundfish harvest specifications, 2007 Groundfish Specifications EIS, and the BSAI FMP, which speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those documents.

131. The allegations in Paragraph 131 characterize the final 2023-2024 BSAI

groundfish harvest specifications, 2007 Groundfish Specifications EIS, and 2023 supplementary information report, which speak for themselves and are the best evidence of their content.

Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those documents.

132. The allegations in Paragraph 132 characterize the 2023 supplementary information report, which speaks for itself and is the best evidence of its content. Federal Defendants deny any allegations contrary to its plain language, meaning, or context.

133. The allegations in Paragraph 133 characterize the final 2023-2024 BSAI groundfish harvest specifications, 2007 Groundfish Specifications EIS, and the BSAI FMP, which speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those documents.

134. The allegations in Paragraph 134 characterize the 2004 Groundfish FMPs EIS and the 2015 supplemental information report for the 2004 Groundfish FMPs EIS, which speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those documents.

135. Federal Defendants admit that the ecosystems in the BSAI have experienced change. The remaining allegations in Paragraph 135 are vague and ambiguous; Federal Defendants therefore lack knowledge or information sufficient to form a belief about the truth of the allegations and deny them on that basis.

136. The allegations in Paragraph 136 are conclusions of law, to which no response is required. To the extent a response is required, Federal Defendants deny the allegations.

137. Federal Defendants admit that some fisheries management decisions may affect the marine ecosystem, but Federal Defendants deny the remaining allegations in Paragraph 137.

138. The allegations in Paragraph 138 characterize the 2004 Groundfish FMPs EIS and 2007 Groundfish Specifications EIS, which speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, or context of those documents.

139. The allegations in Paragraph 139 are conclusions of law, to which no response is required. To the extent a response is required, Federal Defendants deny the allegations.

The remainder of Plaintiffs' complaint constitutes their requests for relief, to which no response is required. To the extent a further response is required, Federal Defendants deny that Plaintiffs are entitled to the relief requested or any relief whatsoever.

DEFENSES

1. Plaintiffs have failed to establish this Court's jurisdiction for some of their claims.
2. Plaintiffs have failed to state a claim upon which the relief sought can be granted.

WHEREFORE, Federal Defendants respectfully request that this Court deny Plaintiffs any relief, dismiss the Complaint with prejudice, grant judgment for Federal Defendants, and grant such other relief as the Court deems appropriate.

Respectfully submitted, this 30th day of May 2023.

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Certificate of Service

I hereby certify that on May 30, 2023, a copy of the foregoing Federal Defendants' Answer was served electronically through CM/ECF on the following counsel of record for Plaintiffs:

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