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

GROUND FISH FORUM, INC.,

Plaintiff,

v.

NATIONAL MARINE FISHERIES  
SERVICE, *et al.*,

Defendants.

Case No. 3:23-cv-00283-JMK

**DECLARATION OF LINDA BEHNKEN**

*Groundfish Forum, Inc. v. NMFS*  
Case No. 3:23-cv-00283-JMK

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Ex. A, p. 1

I, Linda Behnken, declare as follows:

1. I am over 21 years of age and under no legal disability. The facts stated in this Declaration are true and correct based on my personal knowledge and my review of business records. I give this declaration voluntarily for use in support of the motion to intervene in the above-captioned litigation filed on behalf of the Alaska Longline Fishermen's Association ("ALFA"), and for all other purposes allowed by law.

2. I live in Sitka, Alaska. I have been ALFA's Executive Director since 1991. ALFA is an Alaska non-profit corporation, classified by the Internal Revenue Service as a 501(c)(6) tax-exempt business league. Its home office is in Sitka. Founded in 1978, the organization initially represented mostly the interests of fishers who target halibut and sablefish. As ALFA has grown, it has continued to be a representative of the halibut and sablefish fisheries while also working to further the interests of Alaska coastal fishing communities and marine resource conservation goals. Its purposes include policy development, participation in scientific research about Alaska's marine resources and sustainable fisheries practices, and providing information and education about Alaska's marine resources and fisheries to its members and the public.

3. I graduated from Dartmouth University in 1984 and subsequently obtained a Master's degree in Environmental Science from Yale University. I

have also participated in the commercial halibut fishery continuously since May 1982 and have invested in the longline fisheries. Currently, my husband, two sons and I harvest halibut aboard the F/V Woodstock, a 38-foot commercial fishing vessel home ported in Sitka, Alaska.

4. ALFA's membership includes over 200 individual commercial fishermen as well as business members such as marine repair businesses, fishing gear retailers, seafood processors, and other businesses that support and rely on Alaska's halibut and sablefish fisheries. Most of ALFA's members reside in Southeast Alaska. There are also members from all over Alaska and the U.S., particularly from coastal communities adjacent to the Bering Sea and Gulf of Alaska, and the Pacific Northwest.

5. 72,000 people live in Southeast Alaska communities, which are heavily dependent on commercial fisheries. Salmon, halibut and sablefish are the three most valuable fisheries in the region, and many fishers participate in multiple fisheries. There are roughly 5,000 Southeast Alaska resident commercial fishing permit holders and crew members. Numerous fishers from the Pacific Northwest also participate in Southeast Alaska fisheries. The fisheries support seafood processors and over 4,500 seafood processing workers. Seafood economy earnings also generate significant employment in the transportation, marine, academic and government sectors in addition to

direct support to regional communities through taxes on landings and other fisheries business taxes.

6. I served as a voting member of the North Pacific Fishery Management Council (Council) from 1992-2001. During my time on the Council, ALFA successfully worked to protect federal waters off Southeast Alaska from trawling due to concerns about bycatch and impacts to habitat. I was also a Commissioner on the International Pacific Halibut Commission (IPHC) from 2016-2018. As part of my work for ALFA, I attend and participate in multiple IPHC and Council meetings each year.

7. The IPHC sets abundance-based quotas and establishes other regulations for the halibut fisheries each year. The IPHC can conserve the halibut resource when it is at low abundance levels only through reducing directed fishery harvests, but it cannot limit halibut bycatch mortality that occurs in the U.S. trawl fisheries. The Council manages trawl groundfish fisheries in Alaska that take halibut as bycatch.

8. ALFA is a leader in conservation and sustainable fisheries advocacy. Its conservation programs include the Fishery Conservation Network, which uses bathymetric data provided by fishers to generate detailed seafloor maps in Alaska that are used to inform sustainable fisheries practices.

ALFA was a leader in developing electronic monitoring systems that provide

halibut and sablefish fishery data to fishery managers. ALFA also engages the next generation of fishermen in conservation practices through its “Young Fishermen’s Initiative” and crew apprentice training programs. Because of these efforts by ALFA members, staff and myself, I received the National Fisherman magazine’s “Highliner” award for leadership for promoting sustainable fisheries in 2009 and was recognized as a “Champion of Change for Sustainable Seafood” by President Obama in 2016. In 2019 ALFA received the Alaska Conservation Foundation’s Lowell Thomas Jr. award for “Outstanding Achievements by a Conservation Organization.” In 2020, I received the Heinz Foundation award for the Environment.

9. One of ALFA’s programs is “Alaskans Own,” Alaska’s first Community Supported Fishery program. Alaskans Own supplies frozen halibut and other seafood harvested by our members to consumers and educates them about sustainable fisheries and marine conservation issues. All proceeds fund ALFA’s conservation programs, including its Seafood Distribution Network that was started in 2020 to address food security issues caused by COVID-19.

10. ALFA primarily represents individuals and communities that own, are employed by, or otherwise depend on directed halibut and sablefish fisheries. ALFA’s specific and limited interests differ from those of the NMFS

and the federal government, which is charged with representing and balancing the interests of a multitude of different stakeholders.

11. Harvest quotas for fisheries that target Pacific halibut are linked to abundance. For various reasons, halibut abundance declined continuously from the late 1990s through 2012. Recent harvests have been the lowest since I started halibut fishing in 1982. Directed fishery catch rates and the female spawning biomass are at low levels, reducing harvests and creating concerns about the long-term health of the resource.

12. Over a decade ago, ALFA and other halibut fishery stakeholders began advocating for the Council to initiate a regulatory action that would reduce Bering Sea halibut bycatch limits, which were set at fixed levels that were unresponsive to the ongoing declines in abundance. By 2015, the Council had developed alternatives that considered a range of percentage-based reductions to the bycatch limits. ALFA's board, many members, and I wrote letters and testified in February and June 2015 requesting that the Council reduce Bering Sea halibut bycatch limits by fifty percent. A fifty percent reduction would have been almost, but not quite, commensurate with the recent reductions in harvest levels for most directed fisheries in the Gulf of Alaska.

13. Five companies, known as the “Amendment 80” companies, operate between eighteen and twenty trawlers in the Bering Sea that are responsible for the majority of halibut killed as bycatch. In June 2015 the Council adopted a twenty-five percent cut to the halibut bycatch limit for the Amendment 80 companies, and fifteen percent cuts to the bycatch limits for other fishery sectors. The Council’s rationale for not adopting a more appropriate limit was that the fleet needed more experience and tools to further reduce their halibut bycatch. The Council’s action, Amendment 111 to the Bering Sea/Aleutian Islands Fishery Management Plan, became effective as a regulation in April 2016 and established the existing 1,745 metric ton halibut bycatch limit for the Amendment 80 fleet.

14. During the final stages of the Council process that adopted Amendment 111, ALFA and other fishers requested that the Council consider linking halibut bycatch limits to abundance in the future. The process for analyzing abundance-based bycatch management began in 2016. ALFA has since worked each year to further the development of abundance-based halibut bycatch limits that would apply to the Amendment 80 fleet. Identifying appropriate indexes was challenging and took eight years. Between 2016 and 2019, I wrote multiple comment letters and testified before the Council at eleven meetings as it worked through various ways to link the bycatch limits

to abundance through work groups, stakeholder committees and a series of discussion papers prepared by Council staff. This effort intensified in 2020 and 2021 as the Council moved toward final action.

15. In December 2021, the Council took final action, adopting Amendment 123 and its implementation of abundance-based management. The Council selected a compromise alternative that would reduce the current limit up to 35 percent at very low levels of halibut abundance. Amendment 123 will make it less likely that bycatch mortality becomes a larger proportion of the total halibut catch and to some extent corrects the existing imbalance among halibut resource users. The abundance-based approach also better aligns bycatch management with directed fishery management.

16. A NMFS regulatory process followed the Council's final action. In February 2023, during the final stage of NMFS's regulatory process, ALFA submitted a comment letter to the agency in support of implementing abundance-based bycatch management pursuant to proposed Amendment 123 to the Bering Sea/Aleutian Islands Fishery Management Plan. ALFA's letter explained that the current fixed halibut bycatch limits are inconsistent with management of the directed halibut fisheries, which respond to stock status. As the halibut stock declined, bycatch in the trawl fisheries has become a larger proportion of total halibut removals. Abundance-based bycatch limits



can ameliorate those imbalances to some degree by placing some of the burden of conservation at low abundance on trawlers, rather than resting the full conservation responsibility on the directed fishery.

17. If the Amendment 80 companies succeed in invalidating Amendment 123, ALFA, its members, and a large number of communities that are active in commercial, subsistence and recreational halibut fisheries in the Bering Sea, Gulf of Alaska and Pacific Northwest will be harmed because of reduced access to halibut. Fishers and communities rely on harvestable adult halibut in the short-term and younger, migrating halibut in the long-term for socio-economic well-being and are highly vulnerable to reductions in the availability of the halibut resource.

18. Halibut bycaught in the Bering Sea reduces halibut harvests in two ways – there are near-term direct effects to Bering Sea halibut fisheries and longer-term, downstream effects to Gulf of Alaska fisheries. The impacts to these different areas vary depending on the proportions of adult (>26” in length) and juvenile (<26” in length) halibut killed as bycatch.

19. Adult halibut bycatch mortality directly affects Bering Sea halibut harvesters. The IPHC determines a total allowable biological catch each year for different regulatory areas based on an annual stock assessment. It then deducts bycatch from the total allowable catch before determining the

allowable harvest for directed fisheries. When halibut abundance declines, fixed levels of bycatch constitute higher proportions of the total allowable catch. This leaves less allowable harvest for directed fisheries. When halibut abundance is sufficiently low, bycatch may even exceed the total allowable catch, thereby preempting the directed fisheries altogether.

20. In the Bering Sea overall, the proportion of halibut harvested in directed fisheries relative to trawl industry bycatch has shifted over time. Alaskans own most of the Bering Sea halibut fleet; there are 25 communities with multiple active vessels as well as a significant number of Alaska vessels from Gulf of Alaska ports such as Anchorage, Homer, Kodiak, Juneau, and Sitka. The disproportionate degree of bycatch mortality has been most severe in IPHC Area 4CDE, where numerous fishing communities depend on the halibut fishery. The Amendment 80 companies have taken about 75 percent to 90 percent of their halibut bycatch in Area 4CDE in recent years.

21. ALFA members who fish in the Bering Sea will suffer significant harm if the Amendment 80 companies invalidate Amendment 123's abundance-based bycatch management, which establishes lower bycatch limits at low levels of halibut abundance and may reduce bycatch mortality. According to the Final EIS, the Amendment 80 fleet was responsible for 17,361 metric tons — that is, more than 38.24 million pounds — of halibut mortality

from 2010 and 2019. Any measure that lowers the numbers of adult halibut killed as bycatch by these companies will provide near-term increases in Bering Sea directed fishery harvests. At extremely low abundance levels, there is also a real risk that Bering Sea bycatch at current fixed limits could exceed IPHC allowable catches, forcing the IPHC to reduce harvests in the Gulf of Alaska by “borrowing” halibut to compensate for Bering Sea bycatch.

22. The Bering Sea is a known halibut nursery area. Juvenile halibut are migratory and likely to move to other areas, including the Gulf of Alaska where most of ALFA’s members harvest halibut. When the Amendment 80 companies kill juvenile halibut, fewer halibut migrate to other areas, resulting in harm to halibut-dependent communities throughout Alaska by reducing halibut harvests over the long term.

23. Juvenile halibut comprise a significant proportion of bycatch by the Amendment 80 vessels in the Bering Sea. Typically, based on weight, more than half the halibut killed by the Amendment 80 companies each year between 2010 and 2020 were juvenile halibut. Reducing the number of juvenile halibut killed as bycatch would allow more halibut to grow over a period of years, which would increase the numbers of larger, mature fish available for fishery harvests and, importantly, for spawning. In 2021, the IPHC published an analysis entitled “Fully subscribed: Evaluating yield trade-offs among

fishery sectors utilizing the Pacific halibut resource” which analyzed the relationship between bycatch and directed halibut fishery catches. Although there is some variability, in general, each pound of reduction in trawl halibut bycatch would generate between 1 and 1.44 pounds of yield to commercial halibut fisheries.

24. ALFA’s comment letters have also explained the concept of “external costs.” External costs are an economic concept that refers to uncompensated social effects. Scientific articles define bycatch as a negative externality because it imposes a cost that is unpriced or only partially priced by markets. The EISs prepared for this action did not quantify the long-term external cost of juvenile halibut bycatch imposed on other users, such as Gulf of Alaska fishermen. NMFS believed that the variability in bycaught halibut sizes and locations of bycatch and harvest made it challenging to develop an economic model.

25. Even if challenging to precisely quantify, the external costs of juvenile halibut bycatch are substantial. NMFS’s EIS provided data showing the metric tons of halibut bycatch by the Amendment 80 companies each year and percentages of that bycatch that were juvenile fish. ALFA typically uses an IPHC formula to convert metric tons to net pounds. Fishermen in the directed halibut fisheries measure and are paid for their catches on the basis

of “net pounds,” which are the weights of the halibut after removal of the gills, viscera, etc. at sea. Between 2016 and 2020 the Amendment 80 fleet was responsible for 10.73 million net pounds of halibut bycatch mortality (or about 14.3 million total pounds, which is also referred to as “round weight” or “round pounds”). More than half of the net weight (5.72 million pounds) consisted of juvenile fish.

26. The IPHC’s range of between 1 and 1.44 pounds of commercial yield per pound of bycatch reduction makes it possible to develop an illustrative range of external costs caused by juvenile halibut bycatch. In 2022 and 2023 halibut prices in Alaska ranged from \$4.90 to \$8.06 per net pound depending on location and time of delivery. Even at the lowest recent price and lowest yield ratio of 1:1, the 5.72 million pounds of bycatch from 2016-2020 would impose a future external cost of \$28 million on directed downstream fisheries, or \$5.6 million each year. At the highest price and yield range, the external costs could rise to \$66 million, or \$11 million each year. Again, this is just for the juvenile fish the Amendment 80 fleet takes as bycatch. The numbers would be much larger if adult fish were included as well.

27. There are also ecological uncertainties — including the potential for even lower future halibut stock sizes — that heighten the need for caution about future bycatch volumes. For example, changing environmental

conditions, the timing of Pacific Decadal Oscillation events, and serious climate changes may all cause species distribution shifts or modify other biological behaviors of Bering Sea fish.

28. There are significant socio-economic benefits associated with locally harvested and processed seafood such as halibut. A 2021 analysis entitled “Commercial Fishing and Local Economies” prepared by the University of Alaska-Anchorage’s Institute of Social and Economic Research explains that local ownership of fishery resources means earnings are spent locally on goods and services and local crew members, creating induced effects on local economies. Each dollar in resident fishery earnings translates to 1.54 dollars in total community revenue and over 7 jobs per million dollars of fishery earnings. In other words, the revenue generated by Pacific halibut at the harvest stage accounts for only a fraction of the total economic activity that would be forgone if the resource was not available.

29. The IPHC has also developed a new economic model, entitled the “Pacific Halibut Multiregional Economic Impact Assessment.” As harvested halibut migrate from the hook to the plate, the trade supports wholesalers, retailers, and services. Each dollar in commercial landing value generates over \$4 in economic activity: the 2019 coastwide commercial harvest value of \$134.1

million was worth over \$550 million in total economic activity, generating over 5,000 jobs.

30. The IPHC's model also shows that over two-thirds of the direct earnings from the halibut fishery accrue to Alaska communities as the primary harvest and processing locations and homes for many vessel owners and crew. Overall, 78 percent of fishery participants are Alaska residents. Residents of other states, principally Washington, own over a third of the Alaska halibut quota but generally deliver their fish to Alaska shore-based processors that purchase almost all the halibut harvested in Alaska.

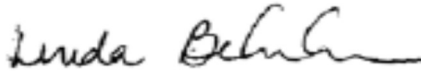
31. Southeast Alaska communities are particularly dependent on the halibut fishery. The most recent data regarding Southeast Alaska resident participation available through the Alaska Commercial Fisheries Entry Commission's website from 2022 shows that Southeast Alaska residents fished 567 halibut permits, harvesting 6.2 million pounds of halibut worth \$39.5 million in ex-vessel values. In all boroughs except for Yakutat and Sitka, halibut was the second most valuable fishery, next to salmon. In Yakutat, halibut was the most valuable fishery. In Sitka, halibut was the third most valuable fishery, following salmon and sablefish.

32. The socio-economic impacts associated with the Amendment 80 companies differ substantially from the benefits of local, community-based

halibut fisheries. Multiple Alaska communities have ownership interests in, are substantially employed by, or otherwise depend on the directed halibut fisheries; on the other hand, ownership, employment, and support services of Amendment 80 companies are concentrated in the Seattle area.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on the 5th day of February, 2024.

  
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Linda Behnken