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Attorneys for the Central Bering Sea Fishermen's Association, City of Saint Paul, Alaska, Alaska Longline Fishermen's Association, Fishing Vessel Owners' Association, Homer Charter Association, The Boat Company, Petersburg Vessel Owners' Association, Alaska Marine Conservation Council, Halibut Association of North America, North Pacific Fisheries Association, Aleut Community of St. Paul Island Tribal Government, and the Seafood Producers Cooperative

**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 HUNTER MCINTOSH

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

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Ex. H, p. 1

I, Hunter McIntosh, hereby 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 Boat Company and for all other purposes allowed by law.

2. I am the President of The Boat Company, an Alaska non-profit corporation established in 1979. The Boat Company is classified by the Internal Revenue Service as a 501(c)(3) and 509(a)(2) tax-exempt public charity.

3. I have worked for The Boat Company since 1995 and have been the company's President since 2012. Before my promotion to President, I served as the company's Marketing and Communications Director and Executive Vice President for Marketing and Development. Today, I am responsible for the company's overall operations, protecting the welfare and livelihoods of The Boat Company's employees, and ensuring the company continues to fulfill its conservation mission. I am also an avid outdoor sportsman.

4. The Boat Company provides educational and conservation-based tours in Southeast Alaska. The company's overriding mission is "to assist and

support in protecting the natural environment of Southeast Alaska by engaging in and sponsoring charitable, educational and scientific programs aimed at natural resource conservation.” Our goal is to allow our passengers to experience the beauty and bounty of Southeast Alaska in hopes that they too will feel the area is worth conserving for generations to come. As far as I am aware, The Boat Company is the only not-for-profit operation of this type in the world.

5. My father, Mike McIntosh, founded The Boat Company out of a passion for Southeast Alaska that he developed while working on fishing boats there during the 1950s. Since founding The Boat Company, he helped to educate thousands of Americans about the ecological and economic values of Southeast Alaska’s marine environment.

6. The Boat Company’s efforts to protect and conserve Southeast Alaska’s natural resources are supported by its business arm, which is based in Sitka and Juneau, Alaska and provides nature-based cruise experiences in the waters along Alaska’s coast. The Boat Company began operating in 1980 and currently conducts multi-day tours from mid-May through mid-September in waterways between Sitka and Juneau aboard two vessels, the 145’ M/V Liseron and the 157’ M/V Mist Cove.

7. The Boat Company reinvests all residual income beyond general overhead operating expenses back into conservation, education and other programs that benefit Southeast Alaska's coastal communities. Since it was founded, The Boat Company has contributed more than \$30 million to conservation organizations and programs that benefit Southeast Alaska, including programs to enhance fisheries to benefit commercial, charter, unguided sport, and subsistence fishermen. The Boat Company also supports scientific research activities and capital improvements at the Sitka Sound Science Center, among other things.

8. Visitors on our tours participate in activities that allow them to learn about and appreciate Southeast Alaska's natural environment, which contributes to its long-term conservation. Our tours also provide revenue and contribute to the economic well-being of local communities. The socio-economic health of Alaska's coastal fishing communities, including through the maintenance of sustainable fishery- and tourism-based economies, is essential to The Boat Company's business and mission.

9. One of the unique and innovative aspects of The Boat Company's tours is the opportunity to experience guided sport fishing combined with nature hikes, kayaking, and opportunities for viewing wildlife. Opportunities to fish for Pacific halibut and Chinook salmon are some of the main activities

that attract our guests and a highlight of their Alaska experience. Halibut and Chinook salmon are the two most prized sport fish species in Southeast Alaska. Halibut fishing opportunities are by far the most important to The Boat Company, however, because they occur throughout Southeast Alaska inside waters along our routes, where Chinook salmon fishing opportunities are less available. We also pride ourselves on serving our guests fresh halibut while aboard. Some of this halibut is harvested by Southeast Alaska commercial fishermen and purchased from seafood processors in Sitka, while other times we feature fresh fish caught by tour participants that very day.

10. Since 2007 our access to halibut has experienced significant changes. Like our commercial colleagues, charter operators in Southeast Alaska have faced ongoing and increasing harvest restrictions. Between 2006 and 2011, regulations reduced a two fish bag limit of any size to a one fish limit of any size, and then to a one fish limit of less than 37 inches in length in Southeast Alaska. Since 2011, annual charter management measures have limited our clients to retention of one smaller fish, with maximum retainable sizes varying between 37 and 45 inches long.

11. In 2023, for the first time in Southeast Alaska, regulations closed guided sport fishing for halibut in Southeast Alaska each Monday beginning July 24. Regulations for 2024 will limit our guests to retaining one halibut of

up to 40 inches in length through July 15th. After July 15th, guests will only be able to retain one halibut of up to 36 inches in length. After July 19th, the regulations will close guided sport fishing for halibut on Friday each week. The Boat Company does not offer fishing opportunities on Saturday and Sunday while the vessels are in port preparing to accommodate the next group of guests. As a result, the unprecedented day-of-week closures pose a significant loss of fishing time during our season.

12. As the halibut resource declined, particularly in the early 2010s, we became increasingly concerned about the impacts of trawl halibut bycatch on Southeast Alaska's fisheries. In 2012, The Boat Company began to participate in North Pacific Fishery Management Council (NPFMC) and National Marine Fisheries Service (NMFS) regulatory processes through written comments, meeting attendance and testimony, and collaboration with other halibut fishery stakeholders.

13. By 2014, the coastal commercial and sport harvest had declined to its lowest level in 30 years. The Boat Company wrote comment letters and participated in meetings of the NPFMC in Seattle and Sitka in 2015 when it was working on reducing halibut bycatch limits in the Bering Sea through an amendment to the Bering Sea/Aleutian Islands Fishery Management Plan. The Boat Company's letters explained that the Bering Sea was a net exporter

of halibut to other areas, and expressed concern about the significant bycatch of juvenile halibut. The Boat Company requested fifty percent cuts to halibut bycatch limits in the Bering Sea, a level commensurate with abundance-based cuts to harvests for directed commercial and guided sport fisheries.

14. The NPFMC instead adopted lower cuts of twenty-five percent to the Amendment 80 companies, which had the highest bycatch limit, and slightly smaller cuts to other fisheries with lower bycatch impacts. After taking final action approving Amendment 111 to the Fishery Management Plan in June 2015 in Sitka, members of the NPFMC stated that these initial changes to the bycatch limits were a first step and further work on halibut bycatch management would be necessary.

15. The Boat Company participated in the NPFMC process that resulted in the adoption of Amendment 123, which sets abundance-based bycatch limits for the Amendment 80 companies. In April and December 2021, The Boat Company submitted comment letters supporting Alternative 4, which would have implemented bycatch limits cuts ranging between 20 and 45 percent at lower levels of halibut abundance. The Boat Company testified at the NPFMC's December 2021 meeting in favor of these reductions.

16. The Boat Company also participated in NMFS's regulatory process which occurred concurrently with the NPFMC process. In October 2021, The

Boat Company and a Southeast Alaska-based fishery organization, the Alaska Longline Fisheries Association, coauthored a letter explaining the importance of lower bycatch limits at lower abundances. Our letter expressed concern about the high levels of juvenile halibut bycatch and its adverse impacts to directed fisheries in Southeast Alaska over the long-term. In February 2023, The Boat Company requested that NMFS approve Amendment 123, both because of the need to provide urgent relief to Bering Sea fishing communities and to reduce the large numbers of juvenile halibut killed in the Bering Sea that would otherwise grow and migrate through the north Pacific Ocean and contribute to other fisheries and the spawning biomass.

17. Based on data from draft and Final Environmental Impact Statements analyzing this action, the Amendment 80 companies were responsible for more than 26 million net pounds of halibut bycatch mortality between 2011 and 2020. In the majority of years during that period, more than half of halibut bycatch mortality consisted of juvenile fish. All told, the Amendment 80 fleet killed almost 14 million net pounds of juvenile halibut from 2011 and 2020.

18. Even more troubling, over half the bycatch mortality occurs in a portion of the Bering Sea which was closed to foreign trawling during the 1970s because it was a nursery area for juvenile halibut but then later re-opened to

domestic trawlers by the NPFMC. Trawl fishing is even allowed in the IPHC's halibut "closed area," where halibut fishing is prohibited because the area is a nursery area for juvenile Pacific halibut. This results in significant juvenile mortality and negates the very purpose of the closed area.

19. Juvenile halibut are likely to migrate south and east along the continental shelf from the Bering Sea to the Gulf of Alaska where most Alaska commercial and sport fishermen harvest halibut. There has long been an economic concern because of the loss of value associated with forgoing future growth before the halibut become large enough to harvest. There is also a conservation concern for stock productivity because juvenile halibut killed as bycatch never mature to spawning age. Several IPHC studies have found that the future loss is greater than their weight when taken as bycatch because annual growth gains exceed natural mortality — in other words, every pound that bycatch is reduced will result in more than one pound of downstream directed fishery gains.

20. Reductions in juvenile halibut bycatch mortality allow for more recruitment of larger fish into directed fisheries, providing long-term benefits to directed fisheries throughout Alaska as the fish grow over a period of years and become available to support future fishery yield for Alaska communities.

These losses, which accumulate over extended periods of time, are a significant factor in reduced outputs from Alaska commercial and recreational fisheries.

21. The Southeast Alaska communities where The Boat Company operates have large, locally owned small boat commercial and sport fleets that fish for halibut. Reduced access to the halibut resource significantly impacts these communities because of high levels of participation in commercial and recreational fishing economies. The regional economy depends on a mix of commercial fisheries and tourism-related activity, including recreational fishing, as primary private sector sources of employment. The halibut fisheries are a major component of both private sector economies.

22. The Boat Company and many commercial halibut fishing vessels that are homeported elsewhere, mostly in Washington State, operate exclusively in Alaska during the summer and portions of the spring and fall. Like year-round Alaska resident commercial fishermen and sport fishing businesses, we purchase fuel, boat equipment, gear and fishing trip provisions and support various coastal community businesses that provide goods and services such as lodging, meals and equipment and boat repairs.

23. International Pacific Halibut Commission multi-regional economic analyses of the Pacific halibut fisheries show that every dollar in commercial fishery landings generates \$4.00 in economic activity and every dollar spent on

charter fishing services generates \$3.40 in economic activity. Most of the economic benefits accrue to Alaska fishing communities. In other words, lower revenues generated by commercial and charter fisheries when catches are reduced represent just a fraction of the economic activity forgone in Alaska fishing communities.

24. If the Amendment 80 companies are successful in their efforts to invalidate abundance-based halibut bycatch limits, The Boat Company will suffer harm to its business and its conservation mission. Our guests would be less likely to book trips with The Boat Company if we did not market and deliver on their expectations of unique fishing opportunities. Fewer clients represent lost opportunities for The Boat Company to educate individuals and families about Southeast Alaska's fish, wildlife, forests and marine habitats with the goal of promoting conservation of these resources. A loss of clientele will also diminish the revenues that The Boat Company uses to support its direct advocacy, charitable giving, and investment in the conservation of these resources. The Southeast Alaska communities The Boat Company seeks to support will also be harmed due to reduced halibut access and reduced economic activity.

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 2nd day of February, 2024.

A rectangular box containing a handwritten signature in black ink that reads "Hunter McIntosh".

Hunter McIntosh