
Todd M. Loomis
Government & Industry Affairs
Cascade Fishing, Inc.

Testimony on “NOAA’s *Steller Sea Lion Science and Fishery Management Restrictions, Does the Science Support the Decisions?*”

Mr. Chairman, thank you for giving me the opportunity to testify on the recent Steller Sea Lion (SSL) biological opinion (BiOp) and the resultant Aleutian Islands fishery closures that were put in place earlier this year. I work for Cascade Fishing, Inc., a Seattle-based seafood company that has been in business since 1988 and one that is heavily dependent on the Aleutian Islands Atka mackerel and Pacific cod fisheries. Our company owns one catcher/processor and is the largest single-vessel quota holder of Atka mackerel. Our vessel catches, processes, and freezes various species of groundfish and in recent years has operated over 225 days each year in the Bering Sea, Gulf of Alaska, and the Aleutian Islands. Our company is also heavily involved in research and has partnered with NMFS, the University of British Columbia, and the University of Alaska Fairbanks on numerous projects.

I’d like to accomplish several things in my testimony today. First, I want to describe our company so you can see how the unnecessary fishery closures that NMFS has imposed are impacting real businesses and real people. Second, I’d like to touch on the analysis that led to these closures and illustrate how NMFS failed to take into account important information that showed their analysis was flawed and that there is no evidence these closures will promote SSL recovery. And finally, I’d like to give you some examples of how the economic analysis (EA) that was prepared was insufficient for this highly controversial action. I’ll close with several suggestions for a way forward including the idea of a high level scientific audit of NMFS’ SSL scientific programs.

Prior to the BiOp and implementation of the fishery closures, our vessel annually fished approximately 140 days in the Aleutian Islands targeting mackerel and cod. This year, under the new fishery closures, we lost about 70 fishing days in the central and western Aleutians. We estimate these lost days came at a cost of just under \$4 million to our crew and vendors and we are just one of the affected companies. The combined loss for all participants in the Aleutian Islands fisheries was estimated by NMFS to be up to 750 jobs and over \$83 million in lost annual earnings. There are seven catcher processors and several catcher vessels that participate in the mackerel fishery and all have been similarly impacted by the fishery closures NMFS has imposed. We expect losses to be even bigger over the next few years if NMFS continues the measures that are now in place.

As a seafood company, we produce high-quality all natural, affordable frozen food that we believe is one of the best protein sources in the world. We are also exporters, with most of our product going overseas to China, Japan and Korea, a plus for the U.S. trade balance. And most importantly, we create and sustain jobs during these uncertain economic times. Our company employs 110 people and our payroll will exceed \$4 million this year.

The North Pacific fisheries are among the best managed in the world. We have a healthy resource, conservative management by the North Pacific Fisheries Management Council (Council), and we are part of a catch share program created by Amendment 80 (A80) to the Fishery Management Plan for the Bering Sea and Aleutian Islands. A80 ended nearly 20 years of Olympic-style derby fishing for our sector and empowered us to form harvesting cooperatives. We have taken full advantage of this opportunity and have fished as a member of a cooperative since the program's inception in 2008. A80 has resulted in stability to our sector and increased annual pay for our crew by enabling us to operate more efficiently. While A80 brought additional costs and monitoring requirements it has resulted in improved management and conservation measures for our fisheries. We now carry two fisheries observers at all times, have electronic monitoring of our catch and fishing locations, use motion-compensated scales to weigh all catch, and every haul is sampled by an observer. All of these tools and technologies have enabled us to very accurately manage and monitor our catch such that we can manage harvest very precisely. We are very proud of our company, the industry we work in, the accomplishments we've made, and the benefits we provide to both our employees and the Nation. The BiOp and the fishery closures, however, threaten to derail all of our hard work and efforts.

To put this at risk, NMFS surely must have had strong evidence and scientific proof that fisheries were causing jeopardy and adverse modification for SSL before closing or restricting fisheries in 145,000 square miles of ocean (that's more than twice the size of New England or roughly the size of the Dakotas) and causing over 32,000 mt (70 million lbs.) of mackerel to become unavailable for harvest and sale? Unfortunately, if you review the BiOp, I think you'll come to the same conclusion that the States of Washington and Alaska came to in their recent review of the BiOp – the information that NMFS had before them does not support a jeopardy or adverse modification finding and there is no established scientific link between fisheries and the SSL decline or recovery. Also recall that, as a whole, the western distinct population segment (DPS) of SSL has increased in numbers over the past decade to the point that they may be on track for downlisting. With this BiOp however, NMFS has chosen to manage SSL for recovery in sub-units smaller than the DPS, which we believe is not consistent with the letter or spirit of the Endangered Species Act.

To put it plainly Mr. Chairman, what you have is an agency that is taking what it deems are 'precautionary measures' that will likely have no impact on the status of SSL, but they are having a profound negative impact on the commercial fishing industry, support services, and communities. Much of the work that the public and the Council have done to participate in the process has fallen on deaf ears. Critiques of the analysis by independent scientists were dismissed and the work of the Council to develop more practical measures designed to meet NMFS criteria were ignored. To date, responses from NMFS have not been received by anyone that took the time to review and submit comments on the draft BiOp and the interim final rule and that is not acceptable. The process that NMFS has undertaken has been driven by an artificial timeline and a pre-conceived notion that the problem is fisheries in spite of the fact that no scientific link to fisheries has been established. NMFS has not responded to public comments as is common practice with Federal actions of this nature and in my opinion, did not allow for adequate external review of the BiOp (including its conclusions and mitigation measures) prior to its release.

I think you'll also find that many of the statements that NMFS made in the draft BiOp and then later corrected based on public input (e.g., the Aleutians are an unproductive ecosystem) should have resulted in different conclusions or persuaded NMFS to modify the fishery closures they originally proposed. For example, NMFS' original assertion in the draft BiOp that fisheries were removing a high fraction of the local biomass of mackerel was turned on its head when challenged in public comments. In reality, the fishery in the western Aleutians was shown to have a relatively low harvest rate – a rate that was even lower than other areas of the Aleutians where the SSL population is more stable. There are several other examples of areas where NMFS' draft BiOp reached to make a case that fishing was affecting SSL and each of their arguments fell apart in the face of comments and information brought forward by outside scientists and the public. In some cases NMFS did modify the final BiOp to correct their mistakes, but they failed to measurably change their conclusions and resulting fishery closures. One would think that NMFS would have reconsidered the closures and the possibility that nutritional stress wasn't to blame, but they just rolled on as if the closures were a pre-ordained outcome that couldn't be modified because they were too far down the road.

In my view, NMFS has become entrenched in their nutritional stress hypotheses and cannot seem to find a way to believe that perhaps something else caused the decline or is preventing recovery. I find this very frustrating in light of the fact that 13 of 14 nutritional stress indicators that have been studied show that nutritional stress is not present in SSL. I remain hopeful, Mr. Chairman, that you and your committee can bring some sanity to this process - a process that has, without good cause, closed fisheries upon which my company's livelihood depends.

What is particularly appalling is the total disregard NMFS had for the efforts put forth by the Council who worked under an extremely tight timeline to address a serious management issue. In my opinion, the Council did an admirable job given the schedule set by NMFS. The Council took the time and made the effort to digest the huge amount of information that NMFS made available when it released the draft BiOp on August 2, 2010. The Council and public had a mere two weeks to review nearly a thousand pages of materials and provide substantive comments during a special Council session that was held August 16 – 20, 2010. It was made clear that this would be the only opportunity to comment as there would be no time for the Council to make adjustments to the proposed fishery closures at their regularly scheduled October 2010 meeting.

While no small task, the Council deliberated and unanimously passed a motion that recommended NMFS consider less restrictive mackerel fishery closures in the western and central Aleutians. The Council's motion was crafted to meet SSL forage needs while preserving as much of the commercial fishery as possible. To do so the Council relied heavily upon the available scientific information to propose measures that allowed fishing outside of critical habitat in the western Aleutians and a geographically spread out fishery inside critical habitat in the central Aleutians. The Council also relied on appropriate science to allow fishing in a limited portion of SSL critical habitat where research had shown relatively low commercial harvest rates of mackerel and protected areas where it appeared harvest rates of the local biomass were larger than they thought prudent given the status of SSL. In most cases the Council's alternative used science that NMFS itself had done (Alaska Fisheries Science Center has done ongoing studies to examine local biomass and harvest rates in areas adjacent to SSL sites). Unfortunately, NMFS largely ignored the Council's motion in the final BiOp and instead of using science to make

surgical changes to the fisheries they made sweeping changes and largely ignored the Council's recommendations and the most relevant scientific studies.

I'd also like to point out that the EA that NMFS prepared for this action was woefully deficient. The agency should have completed an Environmental Impact Statement (EIS) because the proposed major Federal action has clearly significantly affected the quality of the human environment (i.e., had a significant economic impact). An EIS is what was prepared during an evaluation of SSL conservation measures in the early 2000's. Given the significance of the proposed action and the clear economic impacts, NMFS should have prepared an EIS, which would have provided a more robust and rigorous assessment of the proposed action and its impacts.

When we got locked out of the mackerel fishery it was assumed in the EA that we would simply move to other fisheries to make up the lost revenue. The EA hypothesized that we could make up the estimated 10 weeks of lost fishing time in the Aleutians by moving into the rock sole fishery for 3 weeks and yellowfin sole for the remaining 7 weeks. While a nice idea, it isn't that simple Mr. Chairman. The EA correctly points out the size difference between mackerel boats and flatfish boats – our boats are larger, we have more crew, and they are costlier to operate. We also earned a different quota portfolio because of the fisheries we historically participated in. Without sufficient prohibited species and other necessary quota allowances, expansion into the more multi-species target fisheries such as flatfish is nearly impossible. If it were profitable for us to target rock sole and yellowfin sole instead of mackerel we would have done so years ago, but that is not the case and we do not have the flexibility to change. I'm also quite certain that other members of our cooperative do not want us crowding them out of their traditional fishing grounds when we should be fishing mackerel and cod in the Aleutians.

As a final point, Mr. Chairman, I would like to call the Committee's attention to some recent developments that may point to a way forward, at least in part. In August, several industry leaders had a meeting with Dr. Lubchenko, head of NOAA. In that meeting we discussed NMFS plans for a scientific evaluation of the BiOp by the Center for Independent Experts (CIE). We believe that NMFS is pursuing a CIE review partly as a response to the scientific review recently completed by the States of Washington and Alaska. Unfortunately, the CIE process is not an open process like the one the States used, and NMFS has up to now repeatedly refused to include the North Pacific Fishery Management Council in the design and implementation of any review of the SSL BiOp despite clear guidance in the Magnuson Stevens Act (MSA) that such peer reviews should be jointly conducted by NMFS and the Council.

At the August meeting, Dr. Lubchenko agreed that the CIE review should be transparent, and that the Council should be involved in its design and implementation. At the Council's October meeting, they accepted this apparent change of heart, adopted terms of reference for the CIE review, and appointed a workgroup to work with NMFS to finalize the process for review of the BiOp. We support this effort, and hope the Committee will monitor this process as it unfolds. It is imperative that any further review be conducted in as open and transparent a manner as that employed by the States, and that all of the scientific information regarding SSLs be evaluated as well as NMFS conclusions. Following such an evaluation, there should be a complete review of the fishery restrictions and revisions to them as appropriate. This should be done through the

MSA process, with full participation by the Council, and not behind closed doors with artificial timelines as was done with the current BiOp and fishery closures.

We also believe that it is time for a broader review of NMFS scientific program for SSLs. Over the past decade or so, the United States has spent roughly \$180 million to better understand the factors affecting SSL recovery. Yet, when it comes time to make decisions regarding our fisheries, crucial data are lacking and we are left with these “precautionary measures”. Perhaps the National Science Foundation or a similar high level scientific organization should audit this program and make recommendations on how we can better use taxpayer funds to get at the basic scientific questions about SSL population status and factors affecting them.

In conclusion Mr. Chairman, I’d like to ask this committee to embark on a mission to rein in NMFS and the broad latitude they have displayed during the development of this BiOp to interpret the science as they see fit and to eliminate economic activity under the guise of being precautionary. Our company supports science and the use of science in the decision making process, but we cannot support what has been done here. If fisheries had been clearly implicated in the SSL issue we would accept the need for fishery restrictions and adjust to the necessary changes. But lacking that scientific proof and having NMFS simply guessing at what needs to be done is not acceptable. NMFS is supposed to be our Nation’s premier scientific agency, but this reckless disregard for science and the law is untenable. In our current economic situation our government should not be undertaking this type of devastating action.

Respectfully,

A handwritten signature in blue ink that reads "Todd M. Loomis". The signature is written in a cursive, flowing style.

Todd M. Loomis
Cascade Fishing, Inc.