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**Testimony on "NOAA's Steller Sea Lion Science and Fishery Management Restrictions:  
Does the Science Support the Decisions?"**

**October 17, 2011**

Good morning, Mr. Chairman. My name is Rudy Tsukada, appearing on behalf of Aleut Enterprise, LLC, a wholly-owned subsidiary of the Aleut Corporation that operates a fuel distribution business on Adak Island. The Aleut Corporation was created pursuant to the Alaska Native Claims Settlement Act ("ANCSA") to represent the Native people of the Aleutian region of Alaska by promoting their economic and social welfare and preserving their traditional ways of life. Its shareholders are Native Aleuts, their families, and descendants. National Marine Fisheries Service (NMFS) groundfish restrictions have severely undermined the economic development of Adak Island and the welfare of the Aleut people.

Adak Island sits on the western edge of the Aleutian Islands in Alaska, 1300 miles (a three-hour jet ride) southwest of Anchorage. The island, the 25<sup>th</sup>-largest in the United States, is currently home to over 300 residents, all of whom live in the City of Adak. Nine-thousand years ago, the Aleuts became the first inhabitants of Adak Island. They hunted whales, seals, otters, sea lions, and islands birds and fished Adak's freshwater streams and surrounding seas. Adak was later settled by the Russians and eventually purchased by the United States. In the early 1940s, Adak Island became the site of a military base operation by the Army Air Corps for offensive action against Japanese military forces occupying the Aleutian Islands of Attu and Kiska. By the spring of 1944, an estimated 90,000 military personnel lived on Adak Island, preparing for strikes against Axis forces in the Pacific arena. After World War II, Adak continued to serve as a naval air station during the Cold War, but its population slowly dwindled over the years. The naval station formally closed in March 1997, and the EPA began performing cleanup of the site, which had been polluted by hazardous substances and explosives.

In 1998, the Aleut Corporation acquired Adak and its facilities in a land exchange agreement with the U.S. Navy and Department of Interior. In return for Adak, the Navy and Interior Department received other lands held by the Aleut Corporation elsewhere in the Aleutian Islands. The Aleut Corporation pursued the exchange in part because the island historically had been the location of an early Aleut community and in part because it saw value in the island's existing facilities. Since the Aleut Corporation acquired the land, numerous families have relocated to Adak. The Aleut Corporation has taken a very active role in the development of the city of Adak, taking action to bring new business to the community. For example, it formed Aleut Enterprise, LLC to encourage commerce on the island. Aleut Enterprise owns a Seafood processing facility on the island that processes Pacific cod, Atka mackerel, halibut, and other Bering Sea groundfish. Another of Aleut Enterprise's primary businesses in Adak is refueling marine vessels, many of which are fishing boats. In order to further promote economic development on Adak, in 2004, Congress granted the Aleut Corporation the exclusive right to the non-Community Development Quota (non-CDQ) directed ollock fishery in the Aleutian Islands Subarea of the Bering Sea-Aleutian Islands Management Area. The Aleuts have the right to assign their harvest rights to others within the Aleutian Island Subarea.

NMFS fisheries restrictions in the Aleutian Islands related to concerns regarding Stellar sea lion populations threaten to destroy Adak's economy and the well-being of its people. In November of 2010, NMFS published its long-delayed biological opinion, or BiOp, on Stellar sea lions. Based on conclusions made in the BiOp, NMFS published an Interim Final Rule on December 13, 2010 that restricted fishing for Pacific cod and Atka mackerel in Management Areas 541, 542, and 543 of the western Aleutian Islands. These restrictions included broad fishing prohibitions in areas near suspected sea lion rookeries, including many areas directly offshore of the Aleutian Islands.

In the BiOp, NMFS concluded that two of the seven subregions within the western distinct population segment (DPS) of Stellar sea lions were not meeting recovery goals and suggested nutritional stress as the cause. The fact is, however, that science does not back up this assertion. First, the western distinct population segment of Steller sea lions has *increased* in abundance over the past decade. According to NMFS, pup production across the western distinct population segment has increased 14 percent and non-pup production has increased 12 to 16 percent. Second, the available data does not support NMFS' claim that sea lions aren't getting enough to eat. Of fourteen indicators of nutritional stress, NMFS identified reduced natality as the *sole* indicator to support its theory that chronic nutritional stress has caused Steller sea lion declines in the western Aleutian islands. The other thirteen indicators suggested that western distinct population sea lions were *not* nutritionally stressed. Furthermore, NMFS found that available groundfish forage inside critical habitat was actually *higher* in the western Aleutian Islands, where NMFS restricted fishing, than elsewhere, such as the Bering Sea and Gulf of Alaska. The NMFS conclusion that sea lions are under nutritional stress is contrary to the scientific evidence.

NMFS even questioned its science. In a November 2010 memorandum to NMFS' Assistant Administrator for Fisheries, NMFS Alaska Region Administrator Jim Balsiger identified that: "The controversy around this action centers on the lack of unequivocal evidence that groundfish fisheries impact Steller sea lions. Failure to implement fishery restrictions similar to the reasonable and prudent alternative in the biological opinion is likely to result in litigation by environmental organizations." Dr. Balsiger *admitted* that NMFS hastily forced unfounded, ideologically-based fisheries restrictions down the throats of rural Alaskans. Despite these facts, NMFS decided to completely shut down fishing for Pacific cod and Atka mackerel in Management Area 543—an area about half the size of Texas—in the Aleutian Islands. NMFS also instated other, somewhat more limited closures, in central Aleutian Islands management areas 541 and 542.

Realizing that the disastrous impacts of the NMFS rule—which violates the Magnuson Stevens Fisheries Conservation Act (MSA), the National Environmental Policy Act (NEPA), the Administrative Procedures Act (APA) and the Endangered Species Act (ESA)—the State of Alaska filed a lawsuit in U.S. District Court the next day against now-departed Department of Commerce Secretary Gary Locke, National Oceanic and Atmospheric Administration (NOAA) Director Jane Lubchenco, and NMFS Alaska Region. Alaska Governor Sean Parnell said that "The agency's conclusion that additional fishing restrictions are necessary is not supported by the best available scientific information. The drastic measures proposed by NMFS are simply not necessary given the overall health of the Stellar sea lion population. This decision will have

immediate and significant impacts on local communities and fishermen in the area.” The Aleut Corporation joined the lawsuit as amicus curiae because NMFS’ restrictions on the fishing industry in the Aleutian Islands have severe negative impacts on the Aleut Corporation, its Native shareholders, and their communities, particularly the community of Adak. The NMFS restrictions harm Adak’s economy, interfere with Aleuts’ connection to their natural environment, and undermine the ability of the Aleut Corporation to pass the intended benefits of its pollock allocation along to the Aleut people.

NMFS’ restrictions will greatly shrink Adak’s economy, which relies heavily on a vibrant fishing industry. Fishing vessels regularly visit Adak to purchase fuel, provisions, food, lodging, and other goods and services. The fisheries closures severely threaten Adak businesses, many of which are subsidiaries of the Aleut Corporation. Numerous fish processing facilities, including Aleut Enterprise subsidiary Aleut Fisheries, LLC, are a critical part of the Adak economy, providing jobs to the Aleut Community in and near Adak. Commercial fishing vessels that target Atka mackerel and Pacific cod account for the majority of Aleut Enterprise’s total fuel sales. Based on my experience as the President of Aleut Enterprise, I believe that marine fuel sales in Adak are likely to drop by over 50 percent as a result of NMFS fisheries closures and restrictions. Furthermore, the fishing restrictions will result in a sharp decline in tax revenues to support Adak. Local taxes paid by Aleut Corporation companies comprise nearly two-thirds of the City of Adak’s revenue base. The loss of business and subsequent loss of tax revenue will severely cripple the City’s ability to provide municipal services to an already underserved community.

In addition to harming Adak’s economy, NFMS fishing restrictions adversely impact Native Aleut culture. The Aleuts have traditionally been very closely tied to their environment, including oceans, fisheries, and marine mammals. They have traditionally fished in the waters now classified as “Management Areas 541, 542, and 543” for thousands of years. Bureaucratic fishing restrictions in these areas sever the Native Aleuts’ connection to their natural environment.

NMFS restrictions on harvesting Pacific cod and Atka mackerel also undermine the ability of the Aleut Corporation, its Native shareholders, and the city of Adak to realize the economic benefit of its statutorily directed Aleutian Islands Subarea pollock allocation. The restrictions make it extremely impractical for vessels to fish for pollock in the Aleutian Islands Subarea. It is financially impossible for fishermen to fish for pollock in the Aleutians when fishing restrictions have closed access to the very locations inhabited by those pollock.

This spring, realizing that the Aleut Corporation was not going to harvest its statutorily directed 2011 pollock allocation in the Aleutian Islands Subarea, NMFS reallocated the majority of the allocation to the Bering Sea Subarea. NMFS reallocated it to parties other than the Aleut Corporation, without providing any compensation to the Aleut Corporation for the value of the resource it was unilaterally taking away. Because NMFS fishing restrictions make it difficult, if not impossible, for the Aleut Corporation or their designees to harvest the Aleut Corporation’s pollock allocation within the Aleutian Islands Subarea, the Aleut Corporation and its Native shareholders will continue to be unable to reap the benefits of its pollock allocation. In the future, when NMFS restrictions prevent the Aleut Corporation or its designees from harvesting

the Aleut Corporation's pollock allocation, NFMS is likely to reallocate the Aleut Corporation's pollock allocation outside the Aleutian Islands Subarea and away from its intended beneficiaries. This will continue to prevent the Aleut Corporation and its Native shareholders to realize the benefits of its pollock allocation.

Hopefully, the unfounded fisheries restrictions in Management Areas 541, 542, and 543 of the Aleutian Islands will be reversed. While the lawsuit against the Commerce Department, NOAA and NMFS plays out, the Aleut Corporation asks the Committee to consider a provision that would allow the voluntary transfer of the Aleut Corporation's pollock allocation outside areas affected by the NFMS fisheries restrictions. This option already exists for Community Development Quota (CDQ) groups. According to existing law (16 U.S.C. § 1855(i)(C)), CDQs may be reassigned or reallocated to another management area or subarea through a voluntary transfer. The option to voluntarily transfer its pollock allocation outside the Aleutian Islands subarea would allow the Aleut Corporation and its shareholders, many of whom live on Adak Island, to realize the benefit from its pollock allocation. This would be a small consolation for the Aleut people, whose economy and connection to the environment have been devastated by unnecessary government restrictions.