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Written Statement to the US House of Representatives - House Resources Committee
NOAA's Steller Sea Lion Science and Fishery Management Restrictions:
Does the Science Support the Decision?

Good Morning. Thank you for the opportunity to speak with you today.

My name is Doug Vincent-Lang. I am a Special Assistant to the Commissioner of the Alaska Department of Fish and Game (ADF&G). As part of my duties I am the Endangered Species Act (ESA) Coordinator for the State of Alaska. I have worked in this position since September, 2007. Previously I worked for the ADF&G as a biologist and Assistant Director for 26 years. I hold a B.S. degree in biology/population dynamics from the University of Wisconsin – Green Bay and a M.S. degree in Biological Oceanography from the University of Alaska Fairbanks.

Today I am here to speak with you regarding concerns the State of Alaska has with the National Marine Fishery Service's Biological Opinion for the western stock of Steller sea lions. In this Biological Opinion, the National Marine Fisheries Service (Service) concluded that fishing in some areas of the Aleutian Islands jeopardizes the Steller sea lion stock and adversely modifies its habitat. Based on this finding, the Service adopted expansive new area closures and restrictions to fishing of a magnitude that cripples the fishing-based economy of the western Aleutians and raises environmental justice questions. As many as 900 people are employed by fisheries fleets and processors in the area facing restrictions. The Service acknowledges that implementation of its decision would cost fishery losses of up to \$66 million annually.

Alaska questions whether these restrictions are justified in light of evidence that the stock now numbers over 73,000 animals, that it is growing overall across its range, and that there is a lack of credible data showing that fishing is in fact jeopardizing Steller sea lions or adversely modifying their habitat.

The conclusion that fishing is affecting the western stock of Steller sea lions was based on speculation, not hard facts. Let's look at the scientific data upon which the National Marine Fisheries Service based their jeopardy and adverse modification:

1. The western stock of Steller sea lions as a whole is recovering and is not in jeopardy at this time. This stock is growing at a rate of 1.4% per year and now numbers over 73,000 animals. As noted in the Biological Opinion itself “Since 2000, the decline has ceased and in most sub-regions the wSSL population is increasing.”
2. Recovery objectives established by the 2008 Steller Sea Lion Recovery Plan are not being violated; rather the current status of the stock achieves the criteria established by the Recovery Plan. To achieve recovery, the plan criteria dictate that the population trend in any two adjacent sub-regions cannot be significantly declining. In fact, the data show that no two adjacent sub-regions are significantly declining: one area does show a decline, but it is not possible to determine if this decline is significant. The plan also dictates that the population trend in any one sub-area cannot have declined by more than 50%. The data show that the population in one sub-region, the Western Aleutians, has declined, but at a rate less than 50%.
3. The primary rationale for the positive jeopardy and adverse modification finding is that the Atka mackerel and Pacific cod fisheries are causing “nutritional stress” to Steller sea lions. There is little sound evidence, however, that nutritional stress is causing the slower-than-desired rate of recovery in the western Aleutians, and the scant available evidence is extremely weak. For example, of the 17 possible life history indicators identified to assess nutritional stress for which the Service has data to evaluate, only 1 indicator showed a positive relationship: reduced birth rate. The remaining 16 biological indicators showed a negative relationship. These negative findings included emaciated pups, reduced pup body size, reduced pup weight, reduced growth rate, reduced pup survival, reduced juvenile survival, reduced adult survival, reduced overall survival, reduced pup counts, reduced non-pup counts, changes in blood chemistry, and increased incidence of disease. And even the reduced birth rate relationship should be viewed with caution given the lack of life history data for sea lions in the western Aleutians. Low birth rates could be attributed to factors other than nutritional stress, for example, predation. Other recent data, collected by the ADF&G and funded by cooperative research monies from the Service, confirms that first-year Steller sea lions pups in the western stock show no evidence of poor body condition. This is yet another source of data that calls into question the Service’s unproven and untested nutritional stress theory, on which their onerous Reasonable and Prudent Alternative is based. In addition, other National Marine Fisheries Service funded research demonstrates out-migration of branded Steller sea lions that move between the western and eastern Steller sea lion stock boundaries, which calls into question the assertion in the Biological Opinion that there is

no cross-migration between the two stocks.

4. The case for restrictions for Pacific cod as an important prey species for Steller sea lions in the western Aleutians is tenuous at best and the basis for its inclusion in the Reasonable and Prudent Alternatives and interim final rule is unjustified. Information available to assess sea lion diets in the western Aleutians is extremely limited. Only 46 total scat (feces) samples are available, and within that limited sample, 94% of the scat samples collected contained no cod at all. Information to assess the extent of sea lion feeding ranges is also extremely limited. The primary justification for the expansive closures in the western Aleutians is the foraging behavior of 3 juvenile males, which may not be representative of all Steller sea lions, particularly adult females, the population component most critical for determining population trends.
5. While it may be theoretically possible for commercial fisheries to adversely impact the prey field of Steller sea lions, the data are very inconclusive. Studies funded by the Service, but largely ignored in the Biological Opinion, reveal that correlations between Steller sea lion population growth and fishing intensity over time and space indicate no significant relationship, much less a negative relationship.
6. The biomass of both Pacific cod and Atka mackerel were increasing under the prior management regime, thus negating the need for the drastic changes implemented by the Service. As a result, the management measures imposed by the final Reasonable and Prudent Alternatives are not consistent with the most recent 2010 biomass estimates for either Pacific cod or Atka mackerel, which were not considered in the Biological Opinion and Reasonable and Prudent Alternative analysis even though they were available before the final Biological Opinion was signed. These most recent (November 2010) biomass surveys for these two species show increasing biomass in the western Aleutians, even to levels sought as targets in the Reasonable and Prudent Alternative.
7. Finally, even accepting as true the false conclusion that fishing is negatively affecting Steller sea lions in the western Aleutians, the Biological Opinion presented no information demonstrating that this effect is adversely modifying critical habitat as a whole for the western stock, as required under the Endangered Species Act.

In summary, there is simply insufficient scientific evidence to conclude that fishing is causing any nutritional stress and thus jeopardy to western Steller sea lions and adverse modification of their critical habitat, much less any level of effect that would require immediate implementation

of corrective actions at this time. The State of Alaska submitted extensive comments identifying these foundational science issues, as well as regarding issues with the process used by the National Marine Fisheries Service to reach their decision. We do not believe that the Service adequately considered the State's concerns. Instead, they strongly relied on their deference to justify their conclusions and discount valid concerns raised by the State and others.

In reaching their conclusion, the Service failed to conduct an independent review of their work, as is normally undertaken and which we believe would have highlighted these shortcomings. In fact, a subsequent independent analysis contracted by the States of Alaska and Washington substantiated many of the scientific concerns identified by affected users.

Also, at the request of the National Marine Fisheries Service, the North Pacific Fishery Management Council held a special meeting to review the Biological Opinion and associated Reasonable and Prudent Alternative. The Service maintained that a special Council meeting was needed to accommodate a severely shortened decision timeframe – after working on the Biological Opinion for over four years. At this meeting the Council developed an alternate Reasonable and Prudent Alternative that would have increased protections for sea lions while minimizing effects on fishing communities as required by the Magnuson-Stevens Act. We are disappointed that the National Marine Fisheries Service did not more fully incorporate the recommendations of the Council in their implemented action.

Finally, the State is also concerned about the lack of meaningful public process allowed by the Service in evaluating the status of Steller sea lions. Specifically, we have concerns about the adequacy of the Environmental Assessment associated with the Biological Opinion; in particular, we question whether the economic valuations presented in the Economic Assessment reflect the real impacts to the affected communities and fishing fleets. For example, the draft Environmental Assessment released to the public was missing large pieces of critical information necessary for the public to make informed comments.

The state is challenging this Biological Opinion and the associated fishery restrictions on various scientific and procedural grounds. Nevertheless, we fully support the recovery of this stock and will work cooperatively with NMFS on joint research.

This concludes my remarks. I would be happy to answer any questions.