

MEMORANDUM OF UNDERSTANDING

HALIBUT USERS COALITION COOPERATIVE ASSISTANCE AND COST AGREEMENT

THIS MEMORANDUM OF UNDERSTANDING (MOU) is made and entered into as of this _____ day of _____, 2023 by and between the Coalition Members Alaska Longline Fishermen’s Association, Central Bering Sea Fishermen’s Association, Fishing Vessel Owners’ Association, Deep Sea Fishermen’s Union, North Pacific Fisheries Association, Petersburg Vessel Owners’ Association, The Boat Company, Homer Charter Association, Alaska Marine Conservation Council, Halibut Association of North America and the City of Saint Paul, Alaska (collectively, the “Directed Halibut Users Coalition” and individually “Coalition Members”).

WHEREAS, Members of the Directed Halibut Users Coalition depend on the halibut resource in coastal Alaska; and

WHEREAS, Coalition Members have a direct and protectable interest in the sustainable management of the halibut resource and are directly affected by management decisions by the North Pacific Fishery Management Council and NOAA Fisheries affecting halibut abundance; and

WHEREAS, the North Pacific Fishery Management Council has adopted, and NOAA Fisheries has approved, Amendment 123 to the Fishery Management Plan (FMP) for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI); and

WHEREAS, Amendment 123 adopts abundance-based PSC limits for the Amendment 80 sector that will result in significant reductions in halibut mortality; and

WHEREAS, reduced halibut mortality in the Amendment 80 sector will substantially benefit the halibut resource and the Coalition Members who depend upon that resource; and

WHEREAS, Coalition Members understand that the Groundfish Forum and/or individual members of the Amendment 80 sector are preparing to file a legal challenge to Amendment 123; and

WHEREAS, it is vitally important to Coalition Members that Amendment 123 be upheld in any litigation by the Amendment 80 sector; and

WHEREAS, Coalition Members agree that intervening in any litigation to defend Amendment 123 is necessary to protect the halibut resource and their interests; and

WHEREAS, any defense of Amendment 123 will require a high level of technical work and legal representation; and

WHEREAS, the Coalition Members agree it is important to cooperate in the technical and legal effort and that appropriate consultants and legal representatives will be obtained; and

WHEREAS, it is most cost effective and efficient to share costs to obtain the technical and legal research to protect their mutual interests; and

WHEREAS, Coalition Members recognize that, as a result of this collaboration and cost-sharing, participating in the Directed Halibut Users Coalition will allow members to participate in the dispute resolution process at a level that would not be possible individually;

NOW, THEREFORE, the Coalition Members agree as follows:

1 Coordination and Direction of Work

- 1.1 All work and legal research performed under this agreement will be directed by a Coordinating Committee made up of Member representatives, with one voting representative selected by each Coalition Member.
- 1.2 The Coordinating Committee shall have the authority to contract through the Central Bering Sea Fishermen's Association, which has agreed to handle financial matters for the Coalition, with other parties whom they deem necessary or helpful in the conduct of the work.
- 1.3 Decisions of the Coordinating Committee shall be by consensus, with members of the Coalition striving for unanimity in all decision-making. Each Coalition Member will have one vote and all votes will have equal weight. Whenever consensus of the Coordinating Committee cannot be reached on the issues described above, however, a vote will be taken among the Coordinating Committee members. A simple majority vote by the members in attendance will carry.

2 Duties of Coalition Members

- 2.1 Cooperate at all times with the other Coalition Members in furtherance of the objectives of this agreement.
- 2.2 Name an appropriate representative to the Coordinating Committee and grant such representative the authority to make decisions on technical and policy matters regarding the hiring of consultants and attorneys.
- 2.3 Attend all Coordinating Committee meetings after reasonable prior notice.
- 2.4 Participate in any fundraising efforts directed by the Coordinating Committee. A fundraising plan will be developed and agreed on, and will include GoFundMe and possible additional online and community efforts.

3 Duties of the Lead Contact

- 3.1 The Coalition Members have agreed on Heather McCarty to serve as the lead contact for the group.
- 3.2 The duties of the lead contact include:
 - 3.2.1 Monitor progress of the dispute and related work and provide information on this progress to the Coordinating Committee.
 - 3.2.2 Make recommendations to the Coordinating Committee on work and services needed.
 - 3.2.3 Call, schedule, and chair meetings of the Coordinating Committee and provide meeting notices and working agendas.
 - 3.2.4 Coordinate and communicate with consultants and legal representatives on a continuous basis and act as coordinator between consultants and the Coordinating Committee.
 - 3.2.5 Monitor consultant's activities.
 - 3.2.6 Provide financial updates from the CBSFA financial department to the Coordinating Committee.
 - 3.2.7 Coordinate press messaging and public relations efforts.

4 Cost Share by the Coalition Members

- 4.1 It will be necessary to incur costs to protect the interests of Coalition Members and defend Amendment 123 in any litigation by the Amendment 80 sector. These expenses will include attorney's fees and any amounts due to any consulting firm hired at the direction of the Coordinating Committee on behalf of the Coalition. Other expenses and select costs may be paid as the Coordinating Committee shall specifically authorize.
- 4.2 Costs incurred on behalf of Coalition will be shared, but not in equal parts. Some Coalition Members have the financial resources to contribute significant amounts to the Coalition Defense Fund. Others will be able to make smaller contributions. Upon signing this Agreement, each Coalition Member will inform the other Members, in writing, of the level of financial and other contributions to be initially provided to the Coalition. A Member can increase their commitment of money and/or time at any juncture, and will inform the other Members of those increased contributions, in writing. No Member will be required to provide additional funds beyond their commitment/s. However, each Member of the Coalition commits to engaging in sector, community and/or general public fund raising to help provide needed funds, and all Members will be part of the fund-raising committee.
- 4.3 Coalition Members have selected the Central Bering Sea Fishermen's Association (CBSFA) to serve as the Coalition's primary financial representative. Coalition Members agree to pay to CBSFA their contributions and any funds raised for the purpose of A123 defense, to be spent for the Coalition's costs and expenses.

- 4.4 As the primary financial representative, CBSFA agrees to (a) receive and hold funds contributed by Coalition Members, and funds received from fund-raising efforts, for use for purposes of the Coalition; (b) regularly notify each Coalition Member of the costs incurred on behalf of the Coalition and the funds contributed and raised by Members; and (c) process and pay from Coalition funds any invoices submitted by consultants or legal representatives retained to represent Coalition Members.
- 4.5 Any funds paid to CBSFA for which the Coalition does not actually incur costs will be refunded to Coalition Members and/or other contributors once the litigation is complete.

5 Term

- 5.1 This agreement shall become effective as of December, 2023, upon signature, and shall continue in full force and effect until terminated by coalition agreement, or by the resolution of the expected litigation, whichever comes first .
- 5.2 Each of the Coalition Members acknowledges that performance by CBSFA and the Lead Contact is expressly conditioned upon the continued cooperation of the Coalition Members.
- 5.3 Any Member may leave the Coalition by informing the other Members in writing of their intent to withdraw.
- 5.4 If any Coalition Member fails to perform its obligations, upon a majority vote of the remaining Coalition Members, the non-performing Member may be removed from the Coordinating Committee and this Memorandum of Understanding may be terminated or amended.
- 5.5 In the event of such termination, the Coalition Members shall be obligated to pay all consulting and legal fees and expenses reasonably advanced or incurred by CBSFA or the Coalition's legal counsel up to the effective date of termination, but not beyond the Coalition member's total contribution as defined in Paragraph 4.2.

6 Counterparts

- 6.1 This Memorandum of Understanding may be executed in any number of counterparts with the same effect as if all parties hereto had signed the same document. All such counterparts shall be construed together and shall constitute one instrument, but in making proof hereof it shall only be necessary to produce one such counterpart.

IN WITNESS WHEREOF, the parties have hereto executed this Memorandum of Understanding as of the date first above written.

Alaska Longline Fishermen's Association

By: _____

Title: _____

Date: _____

Central Bering Sea Fishermen's Association

By: _____

Title: _____

Date: _____

Fishing Vessel Owners' Association

By: _____

Title: _____

Date: _____

North Pacific Fisheries Association

By: _____

Title: _____

Date: _____

Petersburg Vessel Owners' Association

By: _____

Title: _____

Date: _____

The Boat Company

By: _____

Title: _____

Date: _____

Homer Charter Association

By: _____

Title: _____

Date: _____

Alaska Marine Conservation Council

By: _____

Title: _____

Date: _____

Halibut Association of North America

By: _____

Title: _____

Date: _____

City of Saint Paul, Alaska

By: _____

Title: _____

Date: _____

[OTHER GROUP MEMBERS]

By: _____

Title: _____

Date: _____