UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668

November 27, 2013

Eric A. Olson, Chairman
North Pacific Fishery Management Council
605 W. 4th Avenue, Suite 306
Anchorage, Alaska 99501-2252

Dear Mr. Olson:

The National Marine Fisheries Service (NMFS) is developing an Endangered Species Act biological opinion based on the preferred alternative the Council selected in October for the Environmental Impact Statement on Steller Sea Lion Protection Measures for Groundfish Fisheries in the Bering Sea and Aleutian Islands Management Area (EIS). As we have noted in the past, the court-ordered schedule for the EIS does not provide sufficient time for NMFS to obtain Council feedback on a draft biological opinion. The current schedule also does not provide enough time for us to engage the Council in the development of fishery management measures to implement a Reasonable and Prudent Alternative (RPA) in the event the biological opinion concludes that we cannot insure the proposed action is not likely to jeopardize the continued existence of the western distinct population segment of Steller sea lions or adversely modify critical habitat.

If RPA measures are needed, the Council is the entity best suited to aid NMFS in the development of such measures in a manner that involves the public, accounts for different points of view, and reconciles potential tradeoffs between sectors of the fishing industry and between affected communities. However, we can only provide that opportunity if the existing schedule is modified. Therefore, we request that the Council consider the following two options and tell us how the Council would like to proceed:

Option 1: Proceed with the current schedule. Under this option we will complete the final EIS by the March 2, 2014, deadline accompanied by a final biological opinion. If we cannot insure the proposed action is not likely to jeopardize the continued existence of the western distinct population segment of Steller sea lions or adversely modify critical habitat, NMFS will develop an RPA and associated fishery management measures without the benefit of Council and stakeholder input and we will proceed with rulemaking to implement those measures by January 2015.

Option 2: Seek a five month extension from the Court. Under this option, if the Court grants the extension, and if we cannot insure the proposed action is not likely to jeopardize the continued existence of the western distinct population segment of Steller sea lions or adversely modify critical habitat, we will release a draft biological opinion to the Council by approximately February 28, 2014. NMFS will provide performance standards for an RPA and will work with the Council to develop associated fishery management measures based on stakeholder input.

The Council will be able to consider this issue during its April and June meetings, and we will finalize the EIS and biological opinion by approximately August 1, 2014. We will then proceed with rulemaking to implement those measures by January 2016, or potentially somewhat earlier if mid-year implementation is practicable.

Under either option, if NMFS determines by approximately February 28, 2014, that RPA measures are not needed based on the biological opinion (i.e., if NMFS can insure the proposed action is not likely to jeopardize the continued existence of the western distinct population segment of Steller sea lions or adversely modify critical habitat), we will finalize the EIS in accordance with the current court-ordered schedule. In other words, our intent is that even if the Court grants a time extension under Option 2, we would not take additional time unless needed for the development of RPA measures through the Council process.

NMFS will only seek a time extension if we have the Council's support. Due to the time required to coordinate with the Department of Justice and other parties and seek the Court's approval, we ask the Council to respond at the December meeting – we cannot wait until the February meeting.

NOAA's Acting Assistant Administrator for Fisheries, Sam Rauch, and plans to attend a portion of the upcoming Council meeting and would be happy to discuss this matter with the Council on December 13, 2013. We look forward to that conversation with the Council.

Sincerely,

Robert D. Mecum

for James W. Balsiger, Ph.D.
Administrator, Alaska Region