

Colin C. O'Brien  
Shawn Eisele  
Eric P. Jorgensen  
EARTHJUSTICE  
325 Fourth Street  
Juneau, Alaska 99801  
T: 907.586.2751  
F: 907.463.5891  
E: cobrien@earthjustice.org  
E: seisele@earthjustice.org  
E: ejorgensen@earthjustice.org

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

STATE OF ALASKA,	)	
Plaintiff,	)	
v.	)	Case No. 3:10-cv-00271-TMB
JANE LUBCHENCO, <i>et al.</i> ,	)	
Defendants.	)	
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ALASKA SEAFOOD COOPERATIVE, <i>et al.</i> ,	)	
Plaintiffs,	)	Case No. 3:11-cv-00001-TMB
v.	)	
NATIONAL MARINE FISHERIES SERVICE, <i>et al.</i> ,	)	
Defendants.	)	
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FREEZER LONGLINE COALITION,	)	
Plaintiff,	)	Case No. 3:11-cv-00004-TMB
v.	)	
JANE LUBCHENCO, <i>et al.</i> ,	)	
Defendants.	)	

**INTERVENOR-DEFENDANTS' MOTION FOR JUDICIAL NOTICE  
PURSUANT TO LOCAL RULE 7.1(d)**

Pursuant to Local Rule 7.1(d) and Federal Rule of Evidence 201, Intervenor-Defendants Oceana, Inc. and Greenpeace, Inc. hereby request that the Court take judicial notice of the following documents attached as Exhibits 30-33 to this motion and to Intervenor-Defendants' Brief Addressing Remedy, which was filed with the Court today:

- Exhibit 30: DeMaster, Douglas, Alaska Fisheries Science Center, Memorandum for James Balsiger, *et al.*, Re: Results of Steller Sea Lion Surveys in Alaska, June-July 2011 (Dec. 5, 2011), *available at* <http://www.afsc.noaa.gov/nmml/PDF/SSL-Survey-memo-2011.pdf> (last visited Feb. 6, 2012).
- Exhibit 31: North Pacific Fishery Management Council, The Plan Team for the Groundfish Fisheries of the Bering Sea and Aleutian Islands, Stock Assessment and Fishery Evaluation Report for the Groundfish Resources of The Bering Sea/Aleutian Islands Regions (Dec. 2011) (excerpts), *available at* <http://www.afsc.noaa.gov/REFM/Docs/2011/BSAIsafe.pdf> (last visited Feb. 6, 2012).
- Exhibit 32: National Marine Fisheries Service, Alaska Region Sustainable Fisheries Catch Accounting, Bering Sea Aleutian Islands Catch Report (includes CDQ) Through: 31-Dec-2011 (Jan. 31, 2011), *available at* [http://www.fakr.noaa.gov/2011/car110\\_bsai\\_with\\_cdq.pdf](http://www.fakr.noaa.gov/2011/car110_bsai_with_cdq.pdf) (last visited Feb. 6, 2012).
- Exhibit 33: North Pacific Fishery Management Council, Discussion about Updating the Groundfish FMP Programmatic SEIS and 2012 Review of the Groundfish Management Policy (Feb. 2012), *available at* <http://www.fakr.noaa.gov/npfmc/PDFdocuments/fmp/PSEISdiscuspap211.pdf> (last visited Feb. 6, 2012).

Exhibit 30 is a memorandum from the Alaska Fisheries Science Center, the research branch of the National Marine Fisheries Service, regarding the most recent Steller sea lion pup aerial survey conducted in June-July 2011. Exhibit 31 is an excerpt of Alaska Fisheries Science Center's most recent stock assessment and fishery evaluation report for Pacific cod in the Bering Sea and Aleutian Islands. Exhibit 32 is the 2011 fisheries catch report for the Bering Sea and Aleutian Islands produced by the National Marine Fisheries Service. Exhibit 33 is a discussion paper that was prepared for the North Pacific Fishery Management Council's February 1-7, 2012 meeting.

These documents are not in the administrative record, because they were generated after the action triggering this lawsuit. They are nonetheless relevant to Intervenor-Defendants' legal points relating to remand. *See, e.g., Esch v. Yeutter*, 876 F.2d 976, 991 (D.C.Cir.1989) (noting permissibility of extra-record material when considering relief). Inclusion of the documents is not sought to expand the record before the agency.

Intervenor-Defendants request judicial notice of these documents as public records and as agency actions posted on the agency's website. *See* Fed. R. Evid. 201; *Catholic League for Religious and Civil Rights v. City and Cnty. of San Francisco*, 567 F.3d 595, 606 n.13 (9th Cir. 2009) (noticing local resolution as matter of public record); *Kitty Hawk Aircargo, Inc. v. Chao*, 418 F.3d 453, 457 (5th Cir. 2005) (noticing agency document readily accessible on agency website).

For the foregoing reasons, Intervenor-Defendants respectfully request that the Court take judicial notice of the exhibits attached hereto.

Respectfully submitted this 8<sup>th</sup> day of February, 2012.

*s/ Colin O'Brien*

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Colin C. O'Brien (AK Bar # 1110701)

Shawn Eisele (AK Bar # 1105019)

Eric P. Jorgensen (AK Bar # 8904010)

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T: 907.586.2751

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*Attorneys for Intervenor-Defendants Oceana, Inc.  
and Greenpeace, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on February 8, 2012, a copy of foregoing INTERVENOR-DEFENDANTS' MOTION FOR JUDICIAL NOTICE PURSUANT TO LOCAL RULE 7.1(d) was served electronically on Bradley Meyen, Murray Feldman, John Martin, Jessica Ferrell, Linda Larson, Svend Brandt-Erichsen, Jeffrey Leppo, Ryan Steen, Daniel Pollak, Dean Dunsmore, David Gross, William Horn, and Timothy Petumenos.

*s/ Colin O'Brien*

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E: [ejorgensen@earthjustice.org](mailto:ejorgensen@earthjustice.org)