

**FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

STATE OF ALASKA,  
*Plaintiff-Appellant,*

and

FREEZER LONGLINE COALITION;  
ALASKA SEAFOOD  
COOPERATIVE; THE GROUND FISH  
FORUM; ALASKA GROUND FISH  
COOPERATIVE; CASCADE  
FISHING, INC.; M/V SAVAGE  
INC.; OCEAN PEACE, INC.; THE  
FISHING COMPANY OF ALASKA,  
INC.; ALASKA JURIS, INC.;  
ALASKA SPIRIT, INC.,  
Washington corporations;  
UNITED STATES SEAFOODS, LLC;  
ALASKA ALLIANCE, LLC;  
ALASKA LEGACY, LLC;  
SEAFREEZE ALASKA 1, LLC;  
ALASKA VAERDAL, LLC;  
IQUIQUE U.S., LLC; UNIMAK  
VESSEL, LLC; CAPE HORN  
VESSEL, LLC; REBECCA IRENE  
VESSEL, LLC; TREMONT VESSEL,  
LLC; ARICA VESSEL, LLC,  
Washington limited liability  
companies; FCA HOLDINGS,  
INC., an Alaska corporation;

No. 12-35201

D.C. Nos.

3:10-cv-00271-TMB

3:11-cv-00001-TMB

3:11-cv-00004-TMB

O'HARA CORPORATION, a Maine corporation; AK VICTORY, INC., a Washington corporation,  
*Plaintiffs,*

v.

JANE LUBCHENCO, in her official capacity as Administrator, National Oceanic and Atmospheric Administration; NATIONAL MARINE FISHERIES SERVICE; JAMES W. BALSIGER, in his official capacity as NMFS Alaska Region Administrator; PENNY PRITZKER, in her official capacity as United States Secretary of Commerce,\*  
*Defendants-Appellees,*

OCEANA; GREENPEACE INC.,  
*Intervenor-Defendants-Appellees.*

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\* Secretary of Commerce Penny Pritzker is substituted for her predecessor, Gary Locke, pursuant to Federal Rule of Appellate Procedure 43(c)(2).

STATE OF ALASKA; FREEZER  
LONGLINE COALITION,  
*Plaintiffs,*

and

ALASKA SEAFOOD  
COOPERATIVE; THE GROUND FISH  
FORUM; ALASKA GROUND FISH  
COOPERATIVE; CASCADE  
FISHING, INC.; M/V SAVAGE  
INC.; OCEAN PEACE, INC.; THE  
FISHING COMPANY OF ALASKA,  
INC.; ALASKA JURIS, INC.;  
ALASKA SPIRIT, INC.,  
Washington corporations;  
UNITED STATES SEAFOODS, LLC;  
ALASKA ALLIANCE, LLC;  
ALASKA LEGACY, LLC;  
SEAFREEZE ALASKA 1, LLC;  
ALASKA VAERDAL, LLC;  
IQUIQUE U.S., LLC; UNIMAK  
VESSEL, LLC; CAPE HORN  
VESSEL, LLC; REBECCA IRENE  
VESSEL, LLC; TREMONT VESSEL,  
LLC; ARICA VESSEL, LLC,  
Washington limited liability  
companies; FCA HOLDINGS,  
INC., an Alaska corporation;  
O'HARA CORPORATION, a Maine  
corporation; AK VICTORY, INC.,  
a Washington corporation,  
*Plaintiffs-Appellants,*

No. 12-35203

D.C. Nos.

3:10-cv-00271-TMB

3:11-cv-00001-TMB

3:11-cv-00004-TMB

v.

JANE LUBCHENCO, in her official capacity as Administrator, National Oceanic and Atmospheric Administration; NATIONAL MARINE FISHERIES SERVICE; JAMES W. BALSIGER, in his official capacity as NMFS Alaska Region Administrator; PENNY PRITZKER, in her official capacity as United States Secretary of Commerce,  
*Defendants-Appellees,*

OCEANA; GREENPEACE INC.,  
*Intervenor-Defendants-Appellees.*

STATE OF ALASKA; ALASKA SEAFOOD COOPERATIVE; THE GROUND FISH FORUM; ALASKA GROUND FISH COOPERATIVE; CASCADE FISHING, INC.; M/V SAVAGE INC.; OCEAN PEACE, INC.; THE FISHING COMPANY OF ALASKA, INC.; ALASKA JURIS, INC.; ALASKA SPIRIT, INC., Washington corporations; UNITED STATES SEAFOODS, LLC; ALASKA ALLIANCE, LLC; ALASKA LEGACY, LLC;

No. 12-35204

D.C. Nos.  
 3:10-cv-00271-TMB  
 3:11-cv-00001-TMB  
 3:11-cv-00004-TMB

ORDER  
 AMENDING  
 OPINION

SEAFREEZE ALASKA 1, LLC;  
ALASKA VAERDAL, LLC;  
IQUIQUE U.S., LLC; UNIMAK  
VESSEL, LLC; CAPE HORN  
VESSEL, LLC; REBECCA IRENE  
VESSEL, LLC; TREMONT VESSEL,  
LLC; ARICA VESSEL, LLC,  
Washington limited liability  
companies; FCA HOLDINGS,  
INC., an Alaska corporation;  
O'HARA CORPORATION, a Maine  
corporation; AK VICTORY, INC.,  
a Washington corporation,

*Plaintiffs,*

and

FREEZER LONGLINE COALITION,  
*Plaintiff-Appellant,*

v.

JANE LUBCHENCO, in her official  
capacity as Administrator,  
National Oceanic and  
Atmospheric Administration;  
NATIONAL MARINE FISHERIES  
SERVICE; JAMES W. BALSIGER, in  
his official capacity as NMFS  
Alaska Region Administrator;  
PENNY PRITZKER, in her official

capacity as United States Secretary of Commerce, <i>Defendants-Appellees,</i>  OCEANA; GREENPEACE INC., <i>Intervenor-Defendants- Appellees.</i>
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Filed October 16, 2013

Before: Mary M. Schroeder, M. Margaret McKeown,  
and Richard C. Tallman, Circuit Judges.

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### **ORDER**

The Opinion filed July 23, 2013, appearing at 723 F.3d 1043, is amended as follows:

1. At slip op. 10, in the fifth sentence of the third full paragraph; 723 F.3d at 1048, line 1, delete “will not” and insert “[are] not likely to” before “jeopardize.”
2. At slip op. 11, in the second sentence of the second full paragraph; 723 F.3d at 1048, line 4 of the second full paragraph, delete “do not jeopardize” and replace with “are not likely to jeopardize.”
3. At slip op. 24, in the second sentence of the first full paragraph; 723 F.3d at 1054, line

7 of the first full paragraph, delete “jeopardizing” and replace with “likely to jeopardize.”

4. At slip op. 27, in the first sentence of the second full paragraph; 723 F.3d at 1055, line 2 of the fifth full paragraph, insert “likely” before “jeopardize.”

With these amendments, the panel has voted to deny appellants’ petition for panel rehearing. Judges McKeown and Tallman have voted to deny the petition for rehearing en banc, and Judge Schroeder has so recommended.

The full court has been advised of appellants’ petition for rehearing en banc and no judge has requested a vote on whether to rehear the matter en banc. Fed. R. App. P. 35.

Appellants’ petition for panel rehearing and petition for rehearing en banc are denied. Further petitions for rehearing and rehearing en banc shall not be entertained.