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for Fisheries Resources*

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PUGET SOUNDKEEPER ALLIANCE,)
COLUMBIA RIVERKEEPER, SPOKANE)
RIVERKEEPER, RE SOURCES FOR) No. 2:13-cv-01839-JCC
SUSTAINABLE COMMUNITIES, PACIFIC)
COAST FEDERATION OF FISHERMEN’S)
ASSOCIATIONS, and INSTITUTE FOR) DECLARATION OF GLEN H. SPAIN
FISHERIES RESOURCES,) IN SUPPORT OF PLAINTIFFS’
) MOTION FOR SUMMARY
Plaintiffs,) JUDGMENT

v.

UNITED STATES ENVIRONMENTAL)
PROTECTION AGENCY and GINA McCARTHY,)
Administrator, United States Environmental)
Protection Agency,)
)
Defendants.)

1 I, GLEN H. SPAIN, state and declare as follows:

2 1. I am the Northwest Regional Director of the Pacific Coast Federation of Fishermen's
3 Associations ("PCFFA"). I have served in that capacity since 1992. I direct all of PCFFA's
4 program efforts in Oregon, Washington, and parts of northern California.

5 2. PCFFA is by far the largest trade organization of commercial fishing families on
6 the west coast. PCFFA is a federation of 15 smaller commercial fishermen's associations, vessel
7 owners' associations, port associations, and marketing associations, with member associations in
8 most U.S. ports on the west coast, including in Washington State. PCFFA also has fishermen
9 members "at-large" who are unaffiliated with any particular fishermen's association but who
10 have become individual members of PCFFA. Collectively, PCFFA's port and member
11 associations and at-large members represent more than 1,000 commercial fishing families west
12 coast wide who are small and mid-sized commercial fishing boat owners and operators
13 conducting their own commercial fishing operations. PCFFA's members have a collective
14 investment in those mostly family-owned commercial fishing operations of well in excess of a
15 billion dollars.

16 3. I am also the Conservation Program Director and Northwest Regional Director of
17 the Institute for Fisheries Resources ("IFR") and have been in these positions since IFR was first
18 organized in 1992. In these positions, I direct all of IFR's fisheries conservation programs, in
19 particular its salmon conservation, education, and advocacy.

20 4. IFR is a separate non-profit, public interest marine resources protection, research
21 and conservation organization originally organized by PCFFA and still closely affiliated with
22 PCFFA and with overlapping Board members, general membership, and staff. IFR manages,
23 directs, and helps fund most of PCFFA's fisheries and habitat conservation and public education
24 programs. IFR has approximately 850 supporting members coast wide, most of whom are
25 commercial fishing men or women, or individuals who have a personal interest in protecting fish

1 and fish consumers. IFR works on behalf of PCFFA coastwide, including in Washington State,
2 to assure that our west coast commercial fisheries are abundant, remain sustainable and that the
3 habitat which commercially fished species need for their survival is protected and, where
4 previously damaged, restored.

5 5. PCFFA and IFR advocate on behalf of commercial fishing men and women and
6 healthy fisheries through lobbying, public education, and litigation. We seek to ensure the long-
7 term survival of commercial fishing as a way of life. Much of this work involves efforts to
8 protect and restore the health of commercially fished species wherever they are threatened.

9 6. The Washington commercial seafood harvest is a major component of the west
10 coast fishing industry, and includes marketing these products all over the world. According to
11 the most recent NOAA statistical publication *Fisheries of the United States (2012)*, commercial
12 fisheries landings in Washington State for 2012 were about 190,566 metric tons, with an initial
13 *ex vessel* value of nearly \$302 million. This is more seafood landings than in either Oregon or
California for that and most past years.¹

14 7. In Washington State, PCFFA's member association, Washington Trollers
15 Association, operates in every Washington port and is Washington State's oldest existing
16 organization of commercial salmon troll (i.e., hook and line gear) fishermen, with individual
17 members from all Washington ports. Additionally, several of our other member groups are
18 themselves coastwide associations with their own membership in many Washington ports, with
19 members participating in all of Washington State's commercial fisheries, not just its salmon
20 fisheries. Most commercial fishermen now have diversified their operations with multiple
permits, enabling them to participate in multiple commercial fisheries, often in multiple states.

21 8. PCFFA and IFR also both work closely and cooperatively with other commercial
22 fishing organizations who are not formally PCFFA member groups. This includes the newly

23 _____
24 ¹ See Exhibit A (National Marine Fisheries Service, *Fisheries of the United States* at 7 (2012),
available at www.st.nmfs.noaa.gov/Assets/commercial/fus/fus12/FUS2012.pdf).

1 formed Coastal Trollers Association (which operates primarily in Washington State, and may
2 soon become a PCFFA member group) and the Alaska Trollers Association, which operates out
3 of Alaska but whose Alaskan members harvest many salmon originating from the Columbia
4 River and from many Washington rivers and waterways. Both PCFFA and IFR also work with
5 numerous Washington-based river and watershed restoration groups, including the Washington
6 Toxics Coalition, the Save Our Wild Salmon Coalition, various Riverkeeper and Coastkeeper
7 groups, and with a number of Washington's Native American Tribes. Our primary concerns are
8 the sustainability, harvestability and consumer safety of our coastal seafood and fisheries
9 harvests, which of course includes all of Washington State's many commercially harvested
10 fisheries resources.

11 9. The commercial fishing industry in Washington generates hundreds of millions of
12 dollars of economic activity each year and supports the livelihoods of many members of PCFFA
13 and IFR. And because many of the ocean-going commercially-fished species of Washington
14 State are highly migratory, Washington-origin fish stocks can also become a large component of
15 the commercial fish harvests of neighboring states like California, Oregon and Alaska,
16 depending on the species. Additionally, many of PCFFA's individual member-owned
17 commercial fishing boats hold multiple permits, including those needed to harvest fish, crabs and
18 other seafood species in Washington's waters.

19 10. Washington's assumed fish consumption rate and related human health criteria
20 water quality standards are important requirements of the Clean Water Act. However,
21 Washington State's current fish consumption rate has been considered inadequately protective
22 for many years by PCFFA members and by Tribal and advocacy organizations with whom we
23 work. Strong Clean Water Act protections for Washington waters are crucial to the commercial
24 fishing industry in Washington because that ensures that the fish and other seafood our members
25 harvest and sell from those waters will be safe to eat. But the fact that Washington's toxic

1 exposure standards in seafood are now so much less protective than what is now deemed the
2 minimum necessary for public health standards in neighboring states like Oregon is likely
3 contributing to or will contribute to a public perception that Washington's seafood is less safe
4 than that of other states like Oregon—or that all west coast seafood may generally be unsafe.
5 The public's perception that wild harvested Washington seafood is a safe source of protein for
6 human consumption is key to maintaining our members' fishing industry markets and
7 livelihoods.

8 11. The U.S. Environmental Protection Agency's ("EPA") and Washington State's
9 failure to adopt a fish consumption standard and attendant human health criteria that adequately
10 protects its residents from exposure to multiple toxic chemicals in its rivers and marine
11 environments that may enter the human food chain via fish and seafood hurts the Washington
12 fishing industry and thus hurts the economy at large. EPA's and Washington State's inaction in
13 adopting more protective seafood toxin exposure standards is likely costing our industry a great
14 deal of money each year, not to mention many lost fishing industry jobs.

15 12. The livelihoods of many PCFFA and IFR members depend on selling healthy fish
16 and shellfish, and that in turn depends on EPA to make sure Washington complies with its legal
17 duties under the Clean Water Act to protect fish and consumers of fish from toxins. Selling
18 unsafe fish, or fish that is perceived by the public as unsafe because of lax government
19 regulations, hurts our members' ability to earn a living. Members of PCFFA would lose the
20 ability to sell their harvested fish if the public perceives that those fish could be contaminated
21 with toxins and that such toxic exposures are under-regulated.

22 13. In short, reduced demand for harvested fish means fewer family-wage jobs for our
23 members and the fishing industry overall and thus less economic activity in coastal communities
24 that depend upon fishing for their members' livelihoods.

25 14. In addition to their very important financial interest, our members feel obligated

1 out of consideration of their customers' health to ensure that the fish and shellfish they sell is as
2 safe as possible, regardless of how much their customers consume. When free of toxic
3 contamination, fish is a healthy part of a well-balanced diet, and our members are concerned that
4 EPA and Washington State have not provided the amount of protection levels for fish their
5 consumers deserve.

6 15. I am aware that EPA has repeatedly told Washington State that Washington's
7 assumed fish consumption rate is inadequate, based on actual fish consumption surveys and data
8 collected in the state. However, EPA has not updated Washington's fish consumption rate to
9 reflect reality, nor has it forced Washington to update that assumed fish consumption rate.
10 Fixing these under-protective standards is integral to the work of PCFFA and IFR members
11 because of their strong interest in healthy fish, sustainable fisheries and the safety of fish
12 consumers.

13 16. Additionally, commercial fishing families are themselves major consumers of the
14 seafood they harvest, and are thus themselves also potentially exposed to unsafe levels of many
15 of water-borne toxins that fish species can absorb or ingest, and which often bio-accumulate in
16 fish tissue. Commercial fishing families, in my experience, personally consume fish at rates
17 comparable to those of the majority of members of the Tribes in Washington State.

18 17. In light of EPA's determinations about the inadequacy of Washington's fish
19 consumption rate, and in light of Washington's years of failure to set its own adequately
20 protective standards, EPA's continued failure to take action to update the Washington fish
21 consumption rate is surprising. How much fish people eat and the level to which they need to be
22 protected by water quality standards, is a knowable fact that has in fact been known for quite
23 some time. By not updating Washington's fish consumption rate and the related human health
24 criteria water quality standards, EPA has failed to prevent the kind of economic hardship for
25 PCFFA and IFR members that has likely resulted from diminished fish sales. It has also failed to

1 protect them adequately from exposure to potentially toxic chemicals they could ingest as
2 consumers of seafood at much higher levels than Washington's current assumed fish
3 consumption standard.

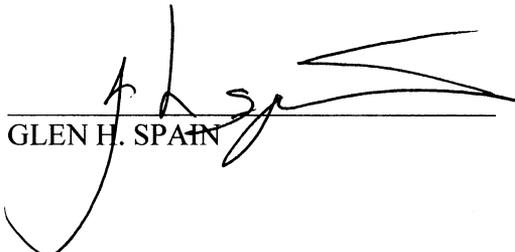
4 18. Washington's under-protective fish consumption rate and associated inadequate
5 water quality standards will continue to harm PCFFA and IFR members, both economically and
6 physically, until EPA adopts adequately protective fish consumption rates for the State of
7 Washington. PCFFA, IFR, and their members have a direct and personal financial interest in the
8 adequate protection of fish and fish consumers in Washington from the impacts of multiple
9 toxins. EPA can and should immediately correct this ongoing harm by issuing a much more
10 protective fish consumption rate for the State of Washington.

11 19. Because I work within the fishing industry, I too am a frequent consumer of
12 seafood, including seafood and salmon that has been or may have been harvested in the State of
13 Washington. My family and I consume and enjoy fish, shellfish or other seafood in large
14 quantity at least two times weekly, and often more. When I travel (which is frequent, and
15 usually along the west coast), I usually seek out local seafood restaurants and seafood dishes for
16 my meals. My estimated personal consumption of fish and other seafood is thus not unlike the
17 estimates of consumption for many members of the Tribes in Washington State. In my
18 experience, nearly all those people I deal with within the fishing industry are also similarly
19 consumers of fish and seafood at very high levels—*far higher levels than the fish consumption*
20 *standard currently assumed by Washington State*. Family fishing operations which PCFFA
21 represents nearly always harvest fish for themselves and their own consumption, as well as for
22 marketing.

23 20. I believe that in the absence of a judgment from the Court that requires EPA to
24 issue a much more protective fish consumption rate and accompanying stricter human health
25 criteria water quality standards for the State of Washington, PCFFA, IFR, and their members

1 will continue to be harmed by EPA's inaction. Delay simply serves to increase the financial and
2 health exposures of myself and PCFFA members to unsafe levels of toxins in fish and shellfish.

3 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true
4 and correct to the best of my knowledge. Executed this 22nd day of January, 2014, at Eugene,
5 Oregon.

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GLEN H. SPAIN