

JAMES S. BURLING, Alaska Bar No. 8411102
MICHAEL POON, California Bar No. 320156*
DAMIEN SCHIFF, California Bar No. 235101*
Pacific Legal Foundation
555 Capitol Mall, Suite 1290
Sacramento, CA 95814
916.419.7111
jburling@pacificlegal.org
mpoon@pacificlegal.org
dschiff@pacificlegal.org

OLIVER DUNFORD, Florida Bar No. 1017791*
Pacific Legal Foundation
4440 PGA Blvd., Suite 307
Palm Beach Gardens, FL 33410
916.503.9060
odunford@pacificlegal.org

**Admitted Pro Hac Vice*

Attorneys for Plaintiffs Wes Humbyrd, et al.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

UNITED COOK INLET DRIFT
ASSOCIATION, et al.,
Plaintiffs,

vs.

NATIONAL MARINE FISHERIES
SERVICE, et al.
Defendants.

WES HUMBYRD, et al.,
Plaintiffs,

vs.

GINA RAIMONDO, et al.,
Defendants.

Case No. 3:21-cv-00255-JMK
3:21-cv-00247-JMK
CONSOLIDATED

DECLARATION OF DAN ANDERSON

I, **DAN ANDERSON**, declare as follows:

1. I am over the age of 18 years. The facts set forth in this declaration are based upon my personal knowledge and, if called as a witness, I could and would competently testify thereto under oath.

2. I have fished for salmon in Cook Inlet as a commercial fisherman for more than 30 years. In most years, I fish for salmon in Cook Inlet's federal waters from June through August, and I derive a significant portion of my annual income therefrom.

3. I am aware of the rule issued by the National Marine Fisheries Service: *Fisheries of the Exclusive Economic Zone Off Alaska; Cook Inlet Salmon; Amendment 14*, 86 Fed. Reg. 60,568 (Nov. 3, 2021) ("Rule"). This Rule implements Amendment 14 to the Salmon Fishery Management Plan, which regulates salmon fishing in federal waters off the coast of Alaska. Under this Rule, the commercial salmon fishery in Cook Inlet's federal waters have been permanently closed.

4. The closure will have a devastating effect on my livelihood.

5. The federal waters are located in the middle of Cook Inlet. As a result, I will be forced to fish in nearshore state waters. Salmon in nearshore waters are not spread out evenly but rather congregate near the river mouths into which they migrate. I will therefore have to travel an additional 8 to 10 hours per trip to arrive at a viable fishing site from my home port of Homer. If

tides are unfavorable, I may be required to drive to state waters the day before I fish. The Rule will therefore increase my operating costs, impose additional travel time, decrease fishing opportunities, and significantly reduce my catch.

6. Further, closing the commercial salmon fishery in Cook Inlet's federal waters will negatively affect the quality of my catch. In my experience, salmon in the open federal waters are fattier and of higher quality in texture, firmness, and color compared to nearshore salmon whose body goes through a form of metamorphosis as they begin to migrate upriver. The catch in state waters is therefore expected to be less competitive and sell at a lower price at market.

7. Closing the commercial salmon fishery in Cook Inlet's federal waters will significantly curtail the volume of my catch. State waters extend only three nautical miles from shore, and much of that space is already taken up by the set net fishermen, which are currently entitled under state regulations to fish the first 1.5 nautical miles from shore plus a 600 foot buffer zone. As a result, I will be left to fish in an extremely narrow band of water, significantly limiting the volume of possible catch compared with fishing in the open federal waters.

8. To catch salmon, I use drift gillnets, an efficient and economical method of fishing. But the difficulties and dangers of drift gillnet fishing in state waters will be greater than in open federal waters. Successful drift gillnet

fishing requires significant space in which to spread out the gillnet. As a result, crowding the entire commercial drift gillnet fishing fleet into the narrow band of state waters will require all fishermen, myself included, to constantly maneuver their vessels and gear to avoid sand bars, rocks, and collisions and interference with other fishermen. These hazards of confining me to state waters—made worse by Cook Inlet's large tidal fluctuations—will increase the likelihood of damage to my fishing gear and vessels.

9. The combination of increased costs, decreased catch volume and quality, and higher risks of damage and injury will likely put me out of business, ending my decades-long career fishing for salmon and significantly decreasing my income.

10. The Rule also reduces the value of my fishing assets, including my transferable fishing permits, vessels, and gear.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 2nd day of February, 2022, at HOMER, Alaska.


DAN ANDERSON