The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

COLUMBIA RIVERKEEPER, IDAHO RIVERS UNITED, SNAKE RIVER WATERKEEPER, PACIFIC COAST FEDERATION OF FISHERMEN'S ASSOCIATIONS, and THE INSTITUTE FOR FISHERIES RESOURCES, Plaintiffs, v. SCOTT PRUITT, *et al.* Defendants.	No. 2:17-cv-00289-RSM **DECLARATION OF JOEL KAWAHARA**

I, JOEL KAWAHARA, state and declare as follows:

1. My name is Joel Kawahara, and I make this declaration based on my own personal knowledge.

2. I am a commercial salmon troller, which means that I use hook and line gear as opposed to nets. I reside in Quilcene, Washington. I have been fishing for salmon in the waters of Washington, Oregon, California, and Alaska since 1978. Fishing is my only source of income. I own and operate my boat, F/V Karolee. I sometimes employ one crew, but for the most part I fish alone. I am also a member of the Board of Directors of the Pacific Coast Federation of Fishermen's Associations (PCFFA), representing my organization, the Coastal Trollers'

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Boise, ID 83701
(208) 342-7024

Association (CTA), which is a PCFFA member organization, on the PCFFA Board.

3. The commercial salmon industry is a vital part of the West Coast economy and is the primary occupation of many individual fishermen, such as myself. I am familiar with the study *Fisheries Economics of the United States* prepared by the National Marine Fisheries Service (2009). According to the study, the West Coast commercial ocean salmon fishery provided more than $369 million in direct (ex vessel) landing sales at West Coast ports in 2009, adding some $1.25 billion to the regional economy.

4. In spite of continued declines in several important salmon runs, I am still able to fish for several different species of salmon each year and able to obtain permits to do so in Washington, Oregon, and Alaska. Today, commercial ocean salmon harvests are composed primarily of hatchery-origin Chinook and coho, because of severe declines in the wild stocks due to many inland and habitat factors, including increasingly high water temperatures in many inland rivers, including the Columbia Basin. All salmonids (i.e., salmon and steelhead) are cold-water dependent fish. I am familiar with EPA's 2003 document *EPA Region 10 Guidance for Pacific Northwest State and Tribal Temperature Water Quality Standards* (EPA 910-B-03-002). If in-river water temperatures rise higher than about 70˚ Fahrenheit for too long, these cold-water fish die. Juvenile salmonids in particular are very sensitive to high water temperatures, which cause them severe physiological stress.

5. The persistent population-level declines of these salmonid fish species severely harms me and other commercial salmon fishermen by limiting commercial salmon harvest opportunities and limiting our potential for income. These negative economic impacts also ripple up and down the West Coast, particularly since the salmonid runs that are harvested are highly migratory. Salmon originating in the Columbia Basin, for instance, make up a significant portion of all ocean harvests of salmon from Central California all the way to Southeast Alaska. The

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Columbia Basin, in spite of decades of declines, still produces more salmon than any other single river system in the world. This is why the habitat—including water temperatures—of the Columbia and Snake Rivers is so important to the health of Columbia Basin-origin salmon runs generally.

6. Healthy salmon and steelhead populations are vital to my ability to earn a living as a commercial fisherman, but they are also a vital part of the fabric of life on the West Coast. I have lived near, recreated in, and enjoyed the waters of Washington State for my entire life. Healthy populations of these fish are an essential part of these activities.

7. I have been fortunate enough to retain salmon fishing permits in Washington and Oregon, and I held a California permit until 2010. I fish as often as I am able and as the seasons and limits for commercially viable salmon (which fluctuate every year) allow. The salmon in West Coast fisheries originate from systems like the Sacramento River, the Klamath River, the Columbia River Basin, Puget Sound, coastal Washington and Oregon, and British Columbia. Assuming that some harvest is permitted and seasons are set, I plan to participate in both of these fisheries again this year and next.

8. Chinook, coho, sockeye, and chum salmon are each both directly and indirectly important to the maintenance and management of the commercial fisheries in which I participate. Now that many runs of these salmon species are listed under the Endangered Species Act ("ESA"), commercial fishing that might target ESA-listed fish has been and must continue to be either severely restricted or completely prohibited. This reduces harvest in two ways: (1) direct declines in some stocks have reached the point where no commercial fishery can or should be maintained, in order to conserve these stocks; and (2) "weak stock management" is employed where weak and healthy stocks intermingle or overlap. In this latter instance, managers impose constraints on whole fisheries to protect any weaker or declining stocks that intermingle with

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otherwise abundant stocks that could be harvested if it were not for the disproportionate impact that harvest might have on the already weakened stocks. That "weak stock management" constraint includes harvest restrictions necessary to protect salmon and steelhead from every one of the 27 West Coast Evolutionarily Significant Units ("ESUs") or Distinct Population Segments ("DPSs") that are protected under the federal Endangered Species Act. When any of those ESA-listed stocks intermingle significantly with otherwise abundant (mostly hatchery origin) salmon runs at sea, this can mean severe to complete closures of all nearby ocean commercial salmon fisheries. It also translates into restrictions on the type of fishing gear permitted in each fishery to minimize the chances of impacting ESA-listed runs.

9. As only one example, ESA-listed Snake River Fall Chinook intermingle in coastal waters with other, unlisted runs of Chinook (i.e., otherwise harvestable) from California, Oregon, Washington, and British Columbia. Because of this, fisheries that target these other non-listed runs as far north as Alaska are restricted each year to minimize any incidental harvest of these protected Chinook. While these restrictions reduce my opportunity to catch fish, I understand and support them as our fishery's contribution to recovery of the listed stocks. But full recovery will come about only by addressing all of the actions that harm salmon runs. Because this is both the goal and the requirement of the ESA, it is an important tool for the restoration of fisheries. Without others doing their part to mitigate or eliminate the harm to these fish in freshwater, however, fisheries will continue to bear a disproportionate share of the burden and I and many others will be subject to continued and increasing economic and aesthetic harms from the unchecked decline of our valuable salmon runs.

10. As a commercial salmon fisherman, I am concerned about the harm to salmon, and to my livelihood, from the effects that increasingly high water temperatures throughout the Columbia Basin are having on escalating salmon mortalities. In recent years particularly,

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elevated water temperatures in the Columbia Basin have led to widespread salmon and steelhead die-offs that raise serious concerns for the future of many of these once-abundant but now ESA-listed salmon runs. I was once hopeful that the states of Washington and Oregon and/or the EPA would adopt and implement a TMDL ("Total Maximum Daily Load") for water temperature to help avoid or reduce fatal river water temperature levels in the Columbia in the summer, but in spite of talk some years ago of getting this done, no TMDL has been adopted and the states and EPA have not curbed the current temperature problems in the Columbia River and their effects on salmonids.

11. EPA's continued failure to adopt a temperature TMDL in the Columbia River and lower Snake River is deeply disappointing. The Clean Water Act was adopted to restore and maintain our nation's waters. To achieve this goal, the Clean Water Act requires a TMDL, which works like a pollution budget, for any water body that does not meet water quality standards. Because of the EPA's inaction, no temperature pollution budget is in place on the Columbia and lower Snake Rivers, even though these Rivers regularly experience high temperatures that exceed water quality standards.

12. I have reviewed EPA's draft temperature TMDL for the Columbia and lower Snake Rivers, which was released to the public in July 2003. The draft TMDL was supported by modeling and other technical information illustrating the temperature problems on these Rivers. I am deeply troubled that now—14 years later—EPA has not completed the TMDL.

13. High water temperatures on the Columbia and lower Snake Rivers have taken a toll on fish and will continue to directly kill individual fish; impair at a population level their overall ability to reproduce; increase temperature-related physiological stresses which make them more vulnerable to fish pathogens, and; sterilize their eggs before they can hatch, among other adverse impacts that increase fish mortalities. EPA's failure to provide the protections

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Boise, ID 83701
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required by the law and the scientific evidence directly and indirectly harms me because fewer ESA-listed salmon and steelhead simply means less opportunity to catch any fish, shorter and more restrictive fishing seasons for those stocks that are available for harvest, a reduced ability to earn a living, and reduced opportunities even to see and appreciate salmon in their native habitats.

14. Unless and until EPA complies with its duties under the Clean Water Act, annually elevated water temperatures in the Columbia and lower Snake river will continue to kill salmon and steelhead, and will contribute to an irreversible decline in these salmon populations and in my ability to harvest, or to merely observe and enjoy these fish in the marine ecosystem. This harm will continue without a judgment from the Court requiring compliance with the law and/or a court order requiring EPA to timely adopt a temperature TMDL to get the Clean Water Act process moving forward for restoring water quality and these priceless fisheries resources in the Columbia River Basin.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 12th day of July, 2017, at Quilcene, Washington.

/s/ Joel Kawahara
JOEL KAWAHARA

ADVOCATES FOR THE WEST
P.O. Box 1612
Boise, ID 83701
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CERTIFICATE OF SERVICE

I hereby certify that on August 30, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Bryan Hurlbutt
bhurlbutt@advocateswest.org

Richard Adam Smith
richard@smithandlowney.com

Chloe H. Kolman
chloe.kolman@usdoj.gov

Sarah Ann Buckley
sarah.buckley@usdoj.gov

Miles B. Johnson
miles@columbiariverkeeper.org

Dated: August 30, 2017

/s/ Bryan Hurlbutt
BRYAN HURLBUTT

ADVOCATES FOR THE WEST
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Boise, ID 83701
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