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Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
(Eugene Division)

NEWPORT FISHERMEN'S WIVES, INC.,
an Oregon nonprofit corporation, **CITY OF
NEWPORT, LINCOLN COUNTY, PORT
OF NEWPORT and MIDWATER
TRAWLERS COOPERATIVE**, an Oregon
cooperative,

Plaintiffs,

v.

UNITED STATES COAST GUARD, an
agency of the United States Department of
Homeland Security,

Defendant.

Case No. 6:14-cv-1890-MC

**DECLARATION OF ROBERT L. EDER
IN SUPPORT OF PLAINTIFFS' MOTION
FOR PRELIMINARY INJUNCTION**

I, Robert L. Eder, being sworn, say:

1. I, Robert L. Eder, being sworn, say:

2. I am a professional fisherman, reside in Newport, Oregon and make this

declaration based upon my own personal knowledge. I have owned multiple vessels and fished

for Dungeness crab off the coasts of Oregon, California and Washington for 40 years. I own the F/V Timmy Boy, a 60 foot vessel that is licensed to fish off the Oregon Coast for Dungeness crab, pink shrimp, sablefish, tuna, halibut, salmon and scallops.

3. In the course of my career, I have served the Oregon crab fleet as the President of the Newport Crab Marketing Association, as an appointee by the Governor of Oregon to a seat on the Oregon Dungeness Crab Commission, and as member, for 25 years, of the TriState Dungeness Crab Commission.

4. Currently, I am engaged in the Oregon fishery for Dungeness crab. I have a 500 pot permit for this limited entry fishery. I captain the vessel, along with my son, Dylan Eder, who serves as alternate skipper, and we carry four other crew members.

5. On November 28th, 2014 we deployed 500 crab pots from our vessel, into the ocean, within the geographical service area of the U.S. Coast Guard rescue helicopter based at the Newport air facility. On December 1, 2014, my crew began retrieval of that gear and the vessel has been continuously fishing and on the ocean since that date. I returned to port on December 8 to unload, refuel and load bait. We will return to the ocean to continue fishing our crab gear as soon as weather permits.

6. Prior to leaving port for this Dungeness crab season, the F/V Timmy Boy underwent a voluntarily dockside safety examination by the U.S. Coast Guard, resulting in receiving a “safety sticker” regarding our compliance with Coast Guard standards. We comply with federal safety requirements aboard our vessel. All of our crew members have taken at least one USCG-qualified drill instructor course, and we are all current in our First Aid and CPR certifications.

7. Furthermore, we have volunteered, and our vessel has been used as a platform for safety training, in cooperation with the U.S. Coast Guard and the National Institute of Safety and Health (NIOSH).

8. Despite all of our actions taken to make our vessel as safe as possible and to educate our crew, I recognize that this fishery is a dangerous one. Because the crab season opens in the winter, we are often at sea during some of the roughest weather of the year, with seas ranging from 20 to 30 feet, and winds reaching up to 70 knots. The average ocean temperature this time of year is approximately 52 degrees. Of greatest concern to a commercial fisherman, like myself, is the possibility of suddenly going overboard into this cold ocean, whether as a result of a fall or a vessel capsizing. The window of time for survival, once in the ocean, and without a survival suit, is very narrow.

9. I have personal knowledge of how unprotected ocean exposure can lead to hypothermia, drowning and death. On December 11, 2001, one of our family's boats was the F/V Nesika, a 40-foot aluminum vessel. Immediately prior to the season start, the F/V Nesika had completed the USCG-conducted voluntary dockside safety exam and had passed muster. On board the vessel that day was an experienced Captain, Rob Thompson, and three crewmen – Jared Hamrick, Steve Langlot and our oldest son, Ben Eder.

10. While setting crab pots, in an area just south of Yaquina Head, the F/V Nesika suddenly capsized at sea. It is unknown what occurred, but no one on the vessel got a MAYDAY call off, no EPIRB went off, and no one had time to get into a survival suit. Another crab fisherman, aboard his vessel, happened upon the F/V Nesika, finding it upside down in the sea, and called the Coast Guard at 10:47 a.m. that day. Of the four men on board the F/V

Nesika, the crab fisherman saw two men floating face down in the water, before they disappeared completely. The two other men were never seen again. The Coast Guard helicopter from Newport and motor lifeboats from Newport and Depoe Bay conducted a search, but no one was found.

11. The F/V Nesika washed ashore the next day. Upon examination of the vessel, the ship's clock, which was operable prior to the vessel getting underway, showed the time at 9:17 a.m. It is believed that this is the time that the vessel capsized. In other words, within an hour and a half of the time these men went into the ocean, and likely, much sooner, they were dead.

12. Based on my 40 years of experience on the Pacific Ocean, and my education and safety training, if I or another fisherman were to fall into this ocean, at these temperatures, regardless of whether I was wearing a personal flotation device, the water is so cold I would either die from shock, or drown as a result of hypothermia. Death would occur in far less time than the two-hour national standard offered by the Coast Guard and certainly sooner than the hour and a half or longer it will take for the Coast Guard to prepare to launch and then fly a helicopter from the North Bend or Astoria air stations.

13. Without the presence of a U.S Coast Guard helicopter operating out of the Newport air facility, my crew and I, and the entire Oregon crab fleet and their crews fishing in this vicinity, are exposed to an imminent threat of death by drowning or hypothermia, in the event of a sudden fall overboard and/or a vessel capsizing.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

DATED this 8 day of December, 2014.

Robert L. Eder



**Page 5 - DECLARATION OF ROBERT L. EDER IN
SUPPORT OF PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

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CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of December, 2014, I served the foregoing

DECLARATION OF ROBERT L. EDER IN SUPPORT OF PLAINTIFFS' MOTION

FOR PRELIMINARY INJUNCTION, on the following:

Sean C. Duffy
United States Department of Justice
Environment & Natural Resources Division
Natural Resources Section
P.O. Box 7611, Ben Franklin Station
Washington, D.C. 20044-7611

by the following indicated method(s):

- by **mail** with the United States Post Office at Portland, Oregon in a sealed first-class postage prepaid envelope.
- by **email**.
- by **hand delivery**.
- by overnight mail.
- by **facsimile**.
- by the court's Cm/ECF system.

/s/ Michael E. Haglund
Michael E. Haglund