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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 and
PORT OF NEWPORT,

Plaintiffs,

vs.

UNITED STATES COAST GUARD,

Defendant.

Case No.: 6:14-cv-01890-MC

DECLARATION OF CAPTAIN
CHRISTOPHER MARTINO IN SUPPORT
OF DEFENDANT'S MOTION TO DISMISS

I, Christopher A. Martino, Captain, United States Coast Guard, make the following Declaration in lieu of an affidavit as permitted by 28 USC Section 1746. I understand that this Declaration will be filed in this action with the United States District Court for the District of Oregon and is the legal equivalent of a statement made under oath.

1. I am a Captain in the United States Coast Guard presently assigned to Coast Guard Headquarters in Washington, DC. I have served in the Coast Guard for 29 years. I currently serve as the Chief of Coast Guard Aviation Forces. Coast Guard Aviation Forces mission is to provide Coast Guard aviation with capability in the form of resources, doctrine, oversight, and training programs to support safe and effective execution of Coast Guard missions. Specifically, with regard to this lawsuit, after the passage of the Fiscal Year 2014 Appropriations Act, my office oversaw the planning associated with the removal of resources from Air Facility Newport for further distribution to gaps within the fleet. I am a helicopter pilot with over 4,000 flight hours and have served as the Operations Officer of Air Station North Bend as well as the Commanding Officer of Air Station Humboldt Bay, California.

2. Pursuant to the Howard Coble Coast Guard and Maritime Transportation Act of 2014, Pub. L. 113-281, December 18, 2014, § 225: “The Coast Guard may not - (A) close a Coast Guard air facility that was in operation on November 30, 2014; or (B) retire, transfer, relocate, or deploy an aviation asset from an air facility described in subparagraph (A) for the purpose of closing such facility. (2) Sunset.—This subsection is repealed effective January 1, 2016.”

3. In compliance with the above provision, the Coast Guard presently has no intention to close the Air Facility or relocate the MH-65 helicopter operating there, and will

continue to operate an MH-65 helicopter from the Air Facility under the same conditions as it is currently operating.

4. Before the passage of § 225, the Coast Guard had considered ceasing operations for the sole MH-65 helicopter at Air Facility Newport, and thereby halting the daily flights between Newport and Air Station North Bend, but the Commandant never officially took this action.

5. Under the National Environmental Policy Act (“NEPA”) and the Council on Environmental Quality’s regulations, categories of agency action that neither individually nor cumulatively have a significant impact on the environment are subject to categorical exclusions from the general requirement to prepare an environmental impact statement or environmental assessment.

6. Pursuant to NEPA and Coast Guard regulations, in considering the now-abandoned proposal to cease operations, the Coast Guard prepared a document which determined that ceasing operations at Air Facility Newport, and halting the daily flights between Newport and Air Station North Bend, fell under applicable categorical exclusions.

7. Notwithstanding its determination that ceasing operations at Air Facility Newport was within the purview of categorical exclusions, and that no further environmental analysis was required, the Coast Guard notified stakeholders and community members of its proposal to cease helicopter operations at Air Facility Newport. Specifically, on October 2, 2014, Coast Guard District 13 staff notified the following individuals and entities regarding the proposed cessation of operations: Governor John Kitzhaber, State Senators Jeff Kruse and Arnie Roblan, State Representatives Wayne Kreiger, Caddy McKeown and David Gomberg, Mayors Rick Wetherell, Crystal Shoji and Sandra Roumagoux, the Coquille Tribe, the Confederated Tribes of the Coos,


Lower Umpqua, and Siuslaw Indians, and the Confederated Tribes of Siletz Indians. The Coast Guard also notified various municipal officials and a representative of the Newport Fisherman's Wives Association on that day. Plaintiffs attached a notice letter as Exhibit A to their Complaint. ECF No. 1. The Coast Guard sent identical letters to the other stakeholders.

8. Further, on October 15, Coast Guard personnel hosted a stakeholder's meeting comprised of many representatives from the officials listed above. On October 20, the Coast Guard hosted a town hall meeting for Newport residents and stakeholders. During these meetings, the Coast Guard informed the relevant stakeholders and members of the public of its proposal and received feedback. An announcement for the town hall meeting is attached as Exhibit 1 to this Declaration. Subsequently, the Coast Guard agreed to delay the proposed date for cessation of operations at Air Facility Newport from November 30, 2014 to December 15, 2014.

9. Going forward, if the Coast Guard were to consider actions such as closing or ceasing operations at Air Facility Newport, following the expiration of § 225, the Coast Guard would evaluate the nature of the proposed action in accordance with established procedure. The Coast Guard previously issued a Categorical Exclusion Determination that was finalized on November 10, 2014, associated with the previously proposed cessation of operations at the Air Facility. Whereas that proposed action became, by virtue of the subsequent legislation, a nonviable proposal, the Categorical Exclusion Determination associated with it is null and void. Whereas each and every proposed action must be reviewed separately under NEPA, should the Coast Guard decide to take an action with regard to the future operation of the facility, the Coast Guard would conduct a new inquiry into the environmental impact of such proposed action.

The facts, circumstances, applicable laws, Coast Guard regulations and operating procedure at the time of the action will be reviewed at that time.

DATED this 23rd day of January, 2015



Captain Christopher A. Martino
United States Coast Guard

EXHIBIT 1

Public can weigh in on USCG air facility closure

SOURCE: Newport News Times

DATE: Oct. 9, 2014

SITE:

http://www.newportnewstimes.com/v2_news_articles.php?heading=0&story_id=45501&page=86

Public can weigh in on USCG air facility closure

Posted: Thursday, Oct 9th, 2014

SOUTH BEACH — The city of Newport, Port of Newport, and Lincoln County, with support from the Oregon Coastal Caucus, will facilitate a joint meeting to allow for input from the public regarding the closure of the U.S. Coast Guard's air facility located at the Newport Municipal Airport.

The meeting will be held on Monday, Oct. 20, from 5:30 p.m. to 7:30 p.m. at the Oregon Coast Community College Central County Campus, 400 SE College Way, South Beach.

Representatives of the Coast Guard 13th District in Seattle; Captain Todd Trimpert, commander of Coast Guard Station North Bend; and Chief Warrant Officer Ryan O'Meara, commanding officer of the Coast Guard Station Yaquina Bay have been invited to participate.

In addition, Congressman Kurt Schrader and representatives from the offices of Sen. Jeff Merkley and Sen. Ron Wyden are expected to attend.

The Coast Guard representatives and federal officials will be available to respond to questions and concerns from members of the public.