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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAI'I

CONSERVATION COUNCIL FOR	)	CIVIL NO.
HAWAI'I, a non-profit corporation;	)	
CENTER FOR BIOLOGICAL	)	COMPLAINT FOR DECLARATORY
DIVERSITY, a non-profit corporation;	)	AND INJUNCTIVE RELIEF
and TURTLE ISLAND RESTORATION	)	
NETWORK, a non-profit corporation,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
NATIONAL MARINE FISHERIES	)	
SERVICE; UNITED STATES	)	
DEPARTMENT OF COMMERCE;	)	
PENNY PRITZKER, Secretary of	)	
Commerce,	)	
	)	
Defendants.	)	
	)	
	)	
	)	
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## COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs Conservation Council for Hawai‘i, Center for Biological Diversity and Turtle Island Restoration Network (collectively, “Plaintiffs”) complain of defendants National Marine Fisheries Service (“NMFS”), United States Department of Commerce, and Penny Pritzker, in her official capacity as Secretary of the Department of Commerce, (collectively, “Defendants”) as follows:

### INTRODUCTION

1. By this Complaint, Plaintiffs seek to set aside (1) NMFS’s final rule implementing a management framework for specifying catch and effort limits and accountability measures for pelagic fisheries in the U.S. Pacific territories of American Samoa, Guam, and the Commonwealth of the Northern Marina Islands; (2) NMFS’s associated final specifications purporting to establish a separate catch limit of 2,000 metric tons of long-line caught bigeye tuna for each of the three territories; and (3) NMFS’s authorization for each territory to allocate up to 1,000 metric tons of that limit to eligible U.S. longline fishing vessels. See 79 Fed. Reg. 64,097 (Oct. 28, 2014) (“Quota Shifting Rule”).

2. NMFS’s Quota Shifting Rule purports to authorize Hawai‘i-based longline vessels to circumvent the annual catch limit of bigeye tuna for all U.S.-flagged longline vessels established pursuant to the Convention on the

Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (“the Convention”), an international agreement to which the United States is a signatory and which seeks to end overfishing of bigeye tuna. First, the Quota Shifting Rule invents out of whole cloth separate catch limits for each U.S. Pacific territory, above and beyond the 3,763-metric-ton quota for all U.S.-flagged longline vessels operating in the Central and Western Pacific. The Rule then purports to authorize each territory to enter into an agreement to allocate to the Hawai‘i-based deep-set longline fleet (which targets tuna, including bigeye) up to 1,000 metric tons of its fictional 2,000-metric-ton quota. The Quota Shifting Rule’s net effect is to add as much as 3,000 metric tons to the annual cap of 3,763 metric tons allocated to the United States under international agreement, nearly doubling the allowable catch.

3. The fisheries of the U.S. Pacific territories collectively catch far fewer than 1,000 metric tons of bigeye tuna per year. The Quota Shifting Rule therefore allows for a substantial net increase in fishing effort by U.S. vessels, undermining international efforts to end overfishing of bigeye tuna.

4. In addition, by allowing the Hawai‘i-based longline fleet to continue fishing after it reaches the 3,763-metric-ton quota for U.S.-flagged longline vessels, the Quota Shifting Rule will result in increased bycatch of yellowfin and northern albacore tuna, sea turtles, seabirds, and silky and oceanic whitetip sharks,

undermining the effectiveness of conservation and management measures adopted pursuant to the Convention to protect these species. Fishing by the Hawai‘i-based deep-set longline fleet beyond the 3,763-metric-ton bigeye quota will also increase bycatch of species protected under the Endangered Species Act, 16 U.S.C. §§ 1531 et seq., including, but not limited to, critically endangered Main Hawaiian Islands insular false killer whales and leatherback and loggerhead sea turtles.

5. As described more fully below, because the Quota Shifting Rule contravenes conservation and management measures adopted by the Western and Central Pacific Fisheries Commission pursuant to the Convention, NMFS’s promulgation of the Rule exceeds its authority under the Western and Central Pacific Fisheries Convention Implementation Act (“Implementation Act”), 16 U.S.C §§ 6901 et seq., and is arbitrary, capricious, an abuse of discretion, not in accordance with law, and/or without observance of procedure required by law, in violation of the Administrative Procedure Act (“APA”), 5 U.S.C. §§ 701 et seq.

#### JURISDICTION AND VENUE

6. The Court has subject matter jurisdiction over the claims for relief in this action pursuant to 5 U.S.C. §§ 701-706 (actions under the APA); 16 U.S.C. § 1855(f) (review of regulations promulgated under the Magnuson-Stevens Fishery Conservation and Management Act); 28 U.S.C. § 1331 (actions arising under the laws of the United States); 28 U.S.C. § 1361 (actions to compel an officer of the

United States to perform his or her duty); and 28 U.S.C. §§ 2201-02 (power to issue declaratory judgments in cases of actual controversy).

7. Venue lies properly in this judicial district by virtue of 28 U.S.C. § 1391(e) because this is a civil action in which officers or employees of the United States or an agency thereof are acting in their official capacity or under color of legal authority, a substantial part of the events or omissions giving rise to the claims occurred in this judicial district, and plaintiff Conservation Council for Hawai‘i resides here.

## PARTIES

### Plaintiffs

8. Plaintiff Conservation Council for Hawai‘i (“CCH”) is a Hawai‘i-based, non-profit citizens’ organization founded in 1950. CCH has approximately 5,500 members and supporters in Hawai‘i, the continental United States, and foreign countries. CCH is the Hawai‘i state affiliate of the National Wildlife Federation, a non-profit membership organization with over 4 million members and supporters nationwide.

9. CCH’s mission is to protect native Hawaiian species and to restore native Hawaiian ecosystems for future generations. In this capacity, CCH and its members frequently testify at the state legislature on various bills relating to the protection of the environment, testify before administrative agencies on proposed

regulations relating to species conservation, communicate with Hawai‘i’s congressional delegation and staff, review and comment on environmental impact statements, support scientific studies and research, engage in field work to survey Hawai‘i’s natural resources, participate in service projects to protect native species and ecosystems, prepare educational materials, including an annual wildlife poster featuring native Hawaiian flora and fauna, and publish a periodic newsletter (*Kolea, News from the Conservation Council for Hawai‘i*) discussing environmental issues in Hawai‘i. Past CCH posters have featured endangered humpback whales, sea turtles and other marine life threatened by the Hawai‘i-based deep-set longline fishery.

10. As part of its mission, CCH has an interest in sustainable commercial fisheries, advocating for increased protection of marine life, and protection of the entire marine ecosystem. Among other things, CCH monitors the decisions and policies of the Western Pacific Regional Fishery Management Council (“WESPAC”) by participating in and attending WESPAC meetings. CCH attends WESPAC meetings to ensure commercial fishing policies adequately account for the health of the marine environment.

11. Bigeye tuna comprise a significant building block of the marine ecosystem, and provide important ecological services. Bigeye tuna serve as forage food for numerous species of fish, marine mammals and seabirds. The bigeye

tuna's predatory nature also serves to regulate populations of other marine species. The unsustainable reduction of bigeye tuna stocks authorized under the Quota Shifting Rule adversely affects the interests of CCH and its members, through the direct harm to bigeye tuna as well as the indirect harm to other species of particular significance to CCH and its members, including marine mammals and seabirds.

12. CCH members include wildlife biologists and others who study and enjoy native Hawaiian marine life, including the fish, marine mammal, sea turtle and seabird species that would be harmed by the fishing activities that NMFS's Quota Shifting Rule would authorize. CCH has a long history of working to protect these species. Among many other initiatives, in the 1990s, CCH helped establish Save the Sea Turtles International, which is based on the North Shore of O'ahu and was established to further sea turtle protection, and CCH remains active in sea turtle protection efforts. CCH has filed suit to protect marine mammals and sea turtles in Hawai'i waters from harmful Navy training and testing activities. CCH has co-sponsored workshops on wildlife rehabilitation, with a focus on seabirds. CCH has produced wildlife viewing signs for Hawaiian whales and dolphins, monk seal, sea turtles, seabirds, and coral reef fishes. These signs promote responsible wildlife viewing to protect these animals, and have been installed on O'ahu and the neighbor islands.

13. CCH has many members who are Hawai‘i residents, including native Hawaiian practitioners, fishers, and gatherers who depend on healthy marine ecosystems. CCH members who are native Hawaiian practitioners have strong cultural connections to the ocean, which is the realm of Kanaloa, one of the four major Hawaiian gods. These members have the *kuleana*, or responsibility, to care for the ocean and its inhabitants, including bigeye tuna, as well as marine mammals and sea turtles, which are killed and injured in the Hawai‘i deep-set longline fishery.

14. CCH members who live outside Hawai‘i regularly visit the islands to enjoy Hawai‘i’s native wildlife and natural areas and have an interest in ensuring the health of Hawai‘i’s marine ecosystems.

15. To protect the aforementioned educational, scientific, cultural, recreational, conservation, and aesthetic interests, CCH brings this action on behalf of itself and its adversely affected members and staff.

16. Plaintiff Center for Biological Diversity (“the Center”) is a nonprofit corporation that works through science, law and policy to secure a future for all species, great or small, hovering on the brink of extinction. The Center has over 50,000 members. The Center is dedicated to the preservation, protection, and restoration of biodiversity, native species, and ecosystems. The Center has members who reside throughout Hawai‘i and who use the areas that serve as

habitat for the fish, marine mammals, sea turtles and other wildlife killed by the Hawai‘i-based deep-set longline fishery.

17. The conservation and sound management of tuna that are overexploited to satisfy the demand for sushi, such as bigeye and bluefin, are central focuses of the Center’s ocean program. The Center has devoted considerable resources to studying and communicating the threats to tuna and organizing scientific, legal and media efforts to mitigate these threats. These efforts include petitioning NMFS in May 2010 to list the Atlantic bluefin tuna under the Endangered Species Act, petitioning in April 2014 to ban fishing of Pacific bluefin tuna under the Magnuson-Stevens Fishery Conservation and Management Act, and launching a grassroots campaign to reduce consumer demand for bluefin tuna sushi.

18. Specifically with respect to bigeye tuna, the Center has been involved in the development of bigeye tuna management regulations, participating in public review of and comment on NMFS’s proposal to adopt the Quota Shifting Rule. The Center also commented on NMFS’s proposed rule implementing bigeye tuna catch limits in longline fisheries for 2013 and 2014.

19. The Center and its members use and enjoy the oceans for numerous activities, including fishing, birding, boating, swimming, research and study. Center members and staff include local residents with educational, scientific

research, aesthetic, spiritual, and recreational interests in tuna, marine mammals, sea turtles and other species adversely affected by the fishery-induced ecosystem changes resulting from overfishing in Hawai‘i-based fishing grounds. They are concerned about and directly affected by environmental injury caused by unsustainable fishing practices in the Hawai‘i deep-set longline fishery, including implementation of the Quota Shifting Rule. The Rule makes it more likely that overfishing of bigeye tuna will occur, which will further reduce the already-depleted bigeye tuna population and exacerbate ecosystem changes, thus harming the Center and its members’ interests. These interests in Pacific bigeye tuna and its environment are being harmed by NMFS’s failure to adequately protect bigeye tuna through compliance with the annual catch limit of bigeye tuna for all U.S.-flagged longline vessels established pursuant to the Convention.

20. The Center’s members and staff have researched, studied, observed, and sought protection for many federally-listed threatened and endangered species that inhabit the Pacific, including species that would be harmed by the fishing activities that NMFS’s Quota Shifting Rule would authorize. The Center’s members and staff regularly use, and plan to continue to use, waters of the Pacific Ocean off Hawai‘i for observation, research, aesthetic enjoyment, and other recreational, scientific, and educational activities. The Center’s members and staff derive educational, scientific, recreational, conservation, spiritual, and aesthetic

benefits from observing marine species in the wild. The Center brings this action on behalf of itself and its adversely affected members and staff.

21. Plaintiff Turtle Island Restoration Network (“TIRN”) is a nonprofit corporation that works through scientific research, legal and policy advocacy, education, and restoration efforts to protect marine and riparian wildlife globally. TIRN’s organizational mission is dedicated to the preservation, protection, and restoration of marine biodiversity, native species, and ecosystems. TIRN has over 150,000 activists and supporters globally, including members who reside throughout Hawai‘i and who use the areas that serve as habitat for the fish, marine mammals, sea turtles and other wildlife killed by the Hawai‘i-based deep-set longline fishery. TIRN staff members also conduct primary scientific research on species harmed by the longline fishery, including hammerhead sharks, whale sharks, and sea turtles, and participate in international conservation efforts.

22. The conservation and sound management of tuna, including bigeye, is critical to TIRN’s programs to protect marine biodiversity, including sea turtles, false killer whales, fish and seabirds. TIRN has devoted considerable resources to studying and communicating the threats to a wide range of threatened and endangered marine species, and organizing scientific, legal, educational, and media efforts to mitigate these threats. In particular, TIRN has actively advocated on all levels to protect these species from both the use of harmful fishing gear and

attempts to ramp up fishery effort. TIRN's campaigns include grassroots efforts to build public opposition to efforts to delist the Hawaiian green sea turtle population under the Endangered Species Act, education and outreach to reduce consumer demand for tuna, including through education regarding mercury intake, filing suit to challenge increases in the Hawai'i-based longline fishery's authorized sea turtle take, advocating for stronger protections for false killer whales, and numerous other political, legal and educational campaigns to protect marine species from harm in the Hawai'i-based longline fishery. TIRN regularly communicates its conservation messages to over 100,000 Facebook users, over 80,000 email subscribers, and hundreds of thousands of members of the public through mainstream media outlets, opinion editorials, radio and television interviews, articles and blogs.

23. TIRN and its members use and enjoy the oceans for numerous activities, including fishing, birding, boating, swimming, research and study. TIRN members and staff include local residents with educational, scientific research, commercial, aesthetic, spiritual, and recreational interests in tuna, marine mammals, sea turtles and other species adversely affected by the fishery-induced ecosystem changes resulting from overfishing in Hawai'i-based fishing grounds and bycatch of important marine species. TIRN members and staff are concerned about and directly affected by environmental injury caused by unsustainable

fishing practices in the Hawai‘i-based deep-set longline fishery, including implementation of the Quota Shifting Rule. The Rule makes it more likely that the Hawai‘i-based deep-set longline fishery will continue fishing beyond the 3,763-metric-ton quota for U.S.-flagged longline vessels, increasing bycatch of marine species and exacerbating ecosystem changes, thereby harming TIRN’s and its members’ aesthetic, business, and research interests. These interests in Pacific bigeye tuna, its environment, and the populations of other threatened and endangered marine species are being harmed by NMFS’s failure to adequately protect bigeye tuna and to limit fishing effort in accordance with international agreements.

24. TIRN’s members and staff have researched, studied, observed, and sought protection for many federally-listed threatened and endangered species that inhabit the Pacific, including species that would be harmed by the fishing activities that NMFS’s Quota Shifting Rule would authorize. TIRN’s members and staff regularly use, and plan to continue to use, waters of the Pacific Ocean off Hawai‘i for observation, research, aesthetic enjoyment, and other recreational, scientific, and educational activities. TIRN’s members and staff derive educational, scientific, recreational, conservation, spiritual, commercial, and aesthetic benefits from observing, photographing, producing film documentaries, and providing

naturalist-led interpretive activities to view marine species in the wild. TIRN brings this action on behalf of itself and its adversely affected members and staff.

25. Plaintiffs and their members will suffer irreparable injury to their educational, research, cultural, conservation, aesthetic, spiritual, commercial and recreational interests unless and until NMFS's Quota Shifting Rule is set aside and NMFS ensures compliance with measures adopted pursuant to the Convention to end overfishing of bigeye tuna.

Defendants

26. Defendant National Marine Fisheries Service is an agency of the National Oceanic and Atmospheric Administration ("NOAA") of the United States Department of Commerce, and is sometimes referred to as "NOAA Fisheries." NMFS is the federal agency responsible for promulgating regulations pursuant to the Implementation Act.

27. Defendant U.S. Department of Commerce is the federal agency with ultimate responsibility for implementing and enforcing compliance with the provisions of law that have been violated as alleged in this Complaint.

28. Defendant Penny Pritzker is sued in her official capacity as the Secretary of the Department of Commerce.

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## LEGAL LANDSCAPE

29. In 2007, the United States ratified the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean.

30. The Convention's objective is to ensure, through effective management, the long-term conservation and sustainable use of highly migratory fish stocks in the western and central Pacific Ocean ("the Convention Area").

31. The Convention also recognizes the need to avoid adverse impacts on the marine environment, preserve biodiversity, maintain the integrity of marine ecosystems and minimize the risk of long-term or irreversible effects of fishing operations.

32. To accomplish its goals, the Convention established the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean ("the Commission"). The Commission has the authority, among other things, to determine the total allowable catch or total level of fishing effort within the Convention Area for highly migratory fish stocks and to adopt such other Conservation and Management Measures ("CMMs") and recommendations as may be necessary to ensure the long-term sustainability of such stocks. The Commission also has the authority to adopt CMMs for non-target species and species dependent on or associated with the target stocks, with a view

to maintaining or restoring populations of such species above levels at which their reproduction may become seriously threatened.

33. In 2007, Congress enacted the Western and Central Pacific Fisheries Convention Implementation Act. Section 505 of the Implementation Act, 16 U.S.C. § 6904, authorizes the Secretary of Commerce to promulgate regulations to carry out the United States' international obligations under the Convention, including recommendations and decisions adopted by the Commission.

34. The authority to promulgate regulations pursuant to the Implementation Act has been delegated to NMFS.

### BACKGROUND FACTS

35. Bigeye tuna is an important food fish and is particularly prized for sushi. In Hawai'i, it is one of two species known as *'ahi*; the other is yellowfin tuna.

36. Bigeye tuna in the western and central Pacific Ocean has been experiencing overfishing since the 1990s. Overfishing occurs whenever a fish stock is subjected to a level of fishing mortality or annual total catch that jeopardizes the capacity of the stock to produce its maximum sustained yield on a continuing basis.

37. Bigeye tuna fishing mortality has been increasing through time and, for the years 2008-2011, is estimated to be 150% of the fishing mortality that could

support maximum sustainable yield. In 2003, NMFS determined that overfishing is occurring Pacific-wide on bigeye tuna.

38. In the Convention Area, bigeye tuna is harvested using a range of fishing gears, with primary impacts from longline and purse seine fisheries.

39. In longline fishing, a monofilament mainline is set horizontally at a preferred depth in the water column, suspended by floats spaced at regular intervals. Mainlines may be up to 60 nautical miles long. Branchlines are clipped to the mainline at regular intervals, and each branchline carries a single baited hook.

40. In longlining, a “set” is a discrete unbroken section of mainline, floats and branchlines. The Hawai‘i-based tuna or “deep-set” fishery typically sets 1,200–1,900 baited hooks at depths of 150–400 meters.

41. From 2004 to 2008, the number of hooks set each year in the Hawai‘i deep-set longline fishery increased from just over 30 million hooks to over 40 million hooks. NMFS estimated in 2013 that the fishery deploys over 46 million hooks a year.

THE QUOTA-SHIFTING RULE CONTRAVENES THE  
COMMISSION’S CONSERVATION AND MANAGEMENT MEASURES

42. In an effort to end overfishing of bigeye tuna and to achieve a sustainable fishery through international cooperation, in 2008, the Commission

adopted the first of a series of CMMs for bigeye tuna in the Convention Area. This measure, CMM 2008-01, sought to achieve, over a three-year period commencing in 2009, a minimum of thirty percent (30%) reduction in bigeye tuna fishing mortality, measured for most countries against their annual average catch levels during the period 2001-2004.

43. In the case of the Hawai‘i-based longline fishery, CMM 2008-01 imposed only a ten percent (10%) reduction in bigeye tuna fishing mortality from the 2004 level of 4,181 metric tons, limiting the fishery’s catch to 3,763 metric tons per year for 2009, 2010 and 2011.

44. CMM 2008-01 established a separate 2,000-metric-ton annual longline limit for each of the U.S. Pacific territories. It further specified that this limit would not apply for territories undertaking responsible development of their domestic fisheries.

45. In December 2013, the Commission adopted the CMM currently in force, CMM 2013-01. Unlike CMM 2008-01, CMM 2013-01 does not establish separate longline catch limits for the U.S. Pacific territories. Instead, CMM 2013-01 provides that “attribution of catch and effort shall be to the flag state” and establishes a single bigeye catch limit for all U.S.-flagged longline vessels, including both Hawai‘i-based longline vessels and any longline vessels from the U.S. Pacific territories.

46. CMM 2013-01 establishes a bigeye catch limit for all U.S.-flagged longline vessels of 3,763 metric tons in 2014, ratchets the limit back to 3,554 metric tons in 2015 and 2016, and further reduces the United States' bigeye longline catch limit to 3,345 metric tons in 2017. CMM 2013-01 specifies that any "overage of the catch limit ... shall be deducted from the catch limit for the following year."

47. On October 28, 2014, NMFS published the Quota Shifting Rule in the Federal Register. The Rule, *inter alia*:

- Establishes a framework for specifying catch or fishing effort limits and accountability measures for pelagic fisheries in the U.S. Pacific territories; and
- Authorizes territories to enter into specified fishing agreements with U.S. fishing vessels and to allocate to those vessels a specified portion of the territory's catch or fishing effort limit, as determined by NMFS and WESPAC.

48. Notwithstanding CMM 2013-01's express language establishing a single, 3,763-metric-ton bigeye catch limit for all U.S.-flagged longline vessels in 2014, NMFS purported to use the Quota Shifting Rule's framework process to establish additional, 2,000-metric-ton bigeye catch limits for each of the three U.S. Pacific territories. In addition, NMFS purported to authorize each territory to

allocate up to 1,000 metric tons of its fictional 2,000-metric-ton limit to Hawai‘i-based, U.S.-flagged longline vessels that do not land or offload catch in the ports of that territory.

49. The Quota Shifting Rule’s net effect is to add as much as 3,000 metric tons to the annual cap of 3,763 metric tons allocated to the United States under international agreement, nearly doubling the allowable catch limit the Commission established to eliminate overfishing of bigeye tuna. NMFS’s purpose in adopting the Rule was to enable the Hawai‘i-based deep-set longline fleet to continue fishing for bigeye after it reaches the catch limit for U.S.-flagged longline vessels set forth in CMM 2013-01.

50. CMM 2013-01 requires the United States to “ensure that the effectiveness of other measures of the Commission is not undermined by a transfer of longline fishing effort or capacity to other areas within the Convention Area.”

51. Under the transfer agreements the Quota Shifting Rule purports to authorize, Hawai‘i-based longliners will increase their catch of yellowfin and northern albacore tuna species, further violating CMM 2013-01, which calls for the United States to “take measures not to increase catches by their longline vessels of yellowfin tuna,” and violating CMM 2005-03, which requires the United States “to ensure that the level of fishing effort by their vessels fishing for North Pacific albacore in the ... Convention Area is not increased beyond current levels.”

52. Moreover, by facilitating an increase in bigeye fishing effort by the Hawai‘i-based longline vessels, the Quota Shifting Rule will result in Hawai‘i-based longliners hooking and killing more sea turtles, silky sharks, oceanic whitetip sharks and seabirds, which are bycatch in the fishery. This undermines the Commission’s efforts to protect those imperiled species, as reflected in CMM 2007-04, CMM 2008-03, CMM 2011-04 and CMM 2013-08.

CLAIM FOR RELIEF

(VIOLATION OF WESTERN AND CENTRAL PACIFIC  
FISHERIES CONVENTION IMPLEMENTATION  
ACT AND ADMINISTRATIVE PROCEDURE ACT)

53. Plaintiffs reallege and incorporate herein by reference each and every allegation contained in all preceding paragraphs of this Complaint.

54. Because the Quota Shifting Rule contravenes conservation and management measures adopted by the Western and Central Pacific Fisheries Commission pursuant to the Convention, NMFS’s promulgation of the Rule exceeds its authority under the Western and Central Pacific Fisheries Convention Implementation Act and is arbitrary, capricious, an abuse of discretion, not in accordance with law, and/or without observance of procedure required by law within the meaning of the APA, 5 U.S.C. § 706(2).

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PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that the Court:

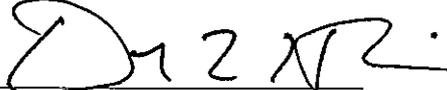
1. Enter a declaratory judgment that Defendants violated the Western and Central Pacific Fisheries Convention Implementation Act and the Administrative Procedure Act by adopting the Quota Shifting Rule and by relying on the Rule (1) to establish additional, 2,000-metric-ton bigeye catch limits for each of the three U.S. Pacific territories and (2) to authorize each territory to allocate up to 1,000 metric tons of this additional bigeye catch limit to Hawai‘i-based, U.S.-flagged longline vessels that do not land or offload catch in the ports of that territory;
2. Vacate and set aside the Quota Shifting Rule, NMFS’s establishment of additional bigeye catch limits for the U.S. Pacific territories, and NMFS’s authorization for the territories to transfer a portion of the additional catch limits;
3. Issue any appropriate injunctive relief;
4. Award Plaintiffs the costs of this litigation, including reasonable attorney’s fees; and
5. Grant Plaintiffs such further and additional relief as the Court may deem just and proper.

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DATED: Honolulu, Hawai'i, November 20, 2014.

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