I, D. Robert Lohn, declare as follows:

1. I am the Regional Administrator of the Northwest Region of the National Marine Fisheries Service (NMFS), an agency within the National Oceanic and Atmospheric Administration (NOAA) of the Department of Commerce, a position I have held since October 2001. Prior to coming to NMFS, I have, over the past decade, held various positions in the Pacific Northwest. From 1987 to 1994 I served as the General Counsel to the Northwest Power Planning Council, now known as the Northwest Power and Conservation Council. After that I managed the fish and wildlife division of the Bonneville Power Administration from 1994 to 1999. Most recently, before coming to NMFS, I held the position of Director of the Fish and Wildlife Division for the Northwest Power and Conservation Council.

2. As Regional Administrator, I have been delegated the authority to approve (with the concurrence of NOAA's Assistant Administrator for Fisheries), and implement fishery management plans and amendments for Pacific Coast groundfish developed by the Pacific
Fishery Management Council (Council) pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). I, or my designee, am a voting member of the Council. NMFS and the Council share responsibilities under the Magnuson-Stevens Act for managing the Pacific Coast groundfish fishery and other federally managed fisheries off Washington, Oregon, and California. In particular, the Council develops and recommends fishery management plans (FMPs), FMP amendments, and regulations to NMFS for approval and implementation. Both Council staff and agency staff, particularly the NMFS NWR’s Sustainable Fisheries Division that I oversee, are responsible for drafting documents such as fishery management plan amendments, and implementing regulations; documents required by the National Environmental Policy Act (NEPA); and documents required by other applicable federal statutes such as the Regulatory Flexibility Act. The agency also compiles data for use by the Council, provides guidance on regulatory requirements, and reviews and comments on the Council’s regulatory proposals.

3. NMFS intends to implement the 2007-2008 specifications (including the overall harvest levels and optimum yield (OY) for the various species) and management measures (specific regulatory measures designed to keep the total harvest within the OYs) for the Pacific Coast groundfish fishery so that they are based on rebuilding plans for all overfished species that are consistent with the 9th Circuit Court of Appeals decision in Natural Resources Defense Council v. National Marine Fisheries Service, No. 03-16842 (D.C. No. CV-02-01650-CRB) (9th Cir., August 24, 2005) (NRDC v. NMFS). Consistent with the decision, it is the agency’s intent that all rebuilding periods will be as short as possible, taking into account the status and biology of the overfished stocks, the needs of fishing communities, and the interaction of the overfished stocks within the marine ecosystem.
4. During the process of reconsidering and revising the rebuilding plans, it is both necessary and important for NMFS to work through the process established in the Magnuson-Stevens Act. Significantly, the Council includes representatives of the various fishing interests along the entire Pacific coast of the United States; representatives of the states of Washington, Oregon and California (who coordinate the development of associated fishery management regulations within state waters. The state of Alaska is also represented but for Pacific groundfish there is no need to coordinate Federal and Alaska regulations); Federal representatives (NMFS, U.S. Department of Fish and Wildlife, U.S. Department of State, and U.S. Coast Guard); and a representative of the Indian tribes with Federally recognized fishing rights off the Pacific coast. (There are four Indian tribes who participate in Pacific groundfish fisheries.) Also, significantly, the deliberations of the Council are open to the public, and include extensive opportunity for public comment. Coordinating with the states through the Council process is particularly important: the states manage the groundfish fishery in state waters, and manage and develop many of the data programs NMFS and the Council use in management (such as fish tickets, logbooks, and port sampling).

5. The Council has five meetings per year to address fishing resource, habitat, industry, community and tribal issues associated with groundfish, salmon, halibut, highly migratory species like tuna, coastal pelagic species like sardines, and marine sanctuaries. The Council has several advisory panels that provide advice on specific aspects of management, including the Groundfish Management Team (GMT), the Science and Statistical Committee (SSC), and the Groundfish Advisory Subpanel (GAP). The Council has its next regularly scheduled meeting next week, October 30 - November 4, 2005, in San Diego, CA (agenda attached as Exhibit 1). For groundfish, the Council has begun developing the 2007-2008 specifications and management measures, in an extensive biennial management public process that is required by the Pacific Coast Groundfish Fishery Management Plan (FMP)(schedule attached as Exhibit 2).
6. The biennial management process was recently implemented through Amendment 17 to
the groundfish FMP. The Council adopted Amendment 17 at its November 2002 meeting
and NMFS approved it on August 20, 2003; the final rule implementing regulations was
Under this biennial cycle, management measures are implemented for a two year period.
Separate harvest specifications for each species are established for each year of the two-
year management period. The development cycle for harvest specifications requires
extensive technical preparation and review, as well as extensive Council consideration and
opportunity for public comment. The adoption of new harvest specifications takes place
over roughly a 14-month period using three Council meetings (November, April, and
June). This provides more time for the Council and NMFS to develop the measures based
on the most recent stock assessments and advice from the GMT, SSC, and GAP. It also
provides significant opportunity for public comment.

7. Each stock assessment process typically involves development of a stock assessment,
an independent review of the stock assessment by NOAA and academic scientists, and for
rebuilding species, updates of the associated rebuilding analysis. The Council decision to
adopt a stock assessment is based on a review of the advice of its SSC who provide an
additional scientific review of these analyses, the recommendations of other Council
committees such as the GMT and GAP, and public comment. Once adopted, the stock
assessment and associated rebuilding analysis form the basis for OY determinations. For
example, the new Darkblotched Assessment was completed in June 2005 after
incorporating May 2005 comments from independent reviewers, which included
nongovernment reviewers from the Center of Independent Experts. After the
Darkblotched Assessment was completed, the associated rebuilding analysis was then
completed in October 2005.

8. The three meeting Council process and the associated NMFS regulatory processes take
14 months to complete. At its November meeting, the Council decides on preliminary
ranges of harvest levels and management measures (e.g. bimonthly, trip limits, area
closures, allocations, seasons, recreational bag limits, etc.) for over 80 groundfish species
harvested by different gear types within four major fishing sectors--each of which contain several subsectors. At its April meeting, the Council decides on final harvest levels, and refines management measures, the impacts of which will then be further analyzed. At its June meeting, the Council decides on final management measures. The Council's June decisions are presented to NMFS in the form of a draft NEPA document (EA or EIS). The draft NEPA document and associated references includes information that compares various management alternatives and detailed analyses of their effects on groundfish resources, fishing industry sectors and sub-sectors, and on fishing communities. NMFS then publishes the proposed specifications and management measures in the Federal Register and provides the public with additional opportunity to comment. Following the close of the comment period on the proposed rule, NMFS completes the decisionmaking process and publishes a final rule in the Federal Register in November.

9. The major conservation theme underlying this process is the rebuilding of eight overfished species, including darkblotted rockfish. At the beginning of each year, a "Bycatch Scorecard" is developed to provide the amount of each overfished species each subsector is likely to harvest. At each Council meeting during the fishing year, current harvest estimates of all species are reviewed to determine whether management measures need adjustment to prevent the fishing from exceeding OYs for any species while allowing the fishery to harvest as much of the healthy stocks as possible. The September 2005 Bycatch Scorecard exemplifies the inter-relatedness of these species with the various sectors and subsectors of the industry (Scorecard attached as Exhibit 3). It also demonstrates that measures to protect one rebuilding species need to account for the effects on other rebuilding species. The January 2006 Scorecard is now under development and among other things will be based on estimates of 2005 harvests including and estimated darkblotted harvest of 163.6 metric tons (mt.), the 23 new stock assessments adopted by the Council, and projections for harvest and mortalities associated with the planned 2006 management regime, including revised 2006 projections of harvest/mortality for darkblotted rockfish. Very preliminary estimates suggest a

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projected harvest/mortality in 2006 of darkblotted on the order of 170-190 mt. against a
projected 2006 OY of 294 mt. These preliminary estimates are based on new observer
data and a management regime that discourages targeting on darkblotted while
simultaneously closing areas where darkblotted are more abundant.

10. At next week’s meeting, I or my designee plan to discuss with the Council potential
actions needed to make the FMP consistent with the 9th Circuit Court of Appeals decision
in NRDC v. NMFS. Within these discussions, if not already suggested by another Council
member, I or my designee, will recommend to the Council that it use this biennial process
and adapt its 2007-2008 biennial process to include development of Amendment 16-4,
which would amend all the current rebuilding language and plans in the FMP to make
them consistent with the 9th Circuit decision in NRDC v. NMFS. Amendments 16-1 to
16-3 established the FMP’s current rebuilding plans and policies. Amendment 16-1
addressed National Standard 1 in the Magnuson-Stevens Act by establishing procedures
for adopting and periodically reviewing rebuilding plans for overfished groundfish stocks.
It also specifies what elements of rebuilding plans will be incorporated into the FMP and
federal groundfish regulations. Amendments 16-2 and 16-3 implemented rebuilding plans,
consistent with the framework established in Amendment 16-1, and set strategic
rebuilding parameters to guide stock rebuilding for canary rockfish, darkblotted rockfish,
lingcod, Pacific ocean perch, bocaccio, cowcod, widow rockfish, and yelloweye rockfish.
By developing Amendment 16-4 in conjunction with this ongoing specification process,
the result will be that the 2007-2008 specifications and management measures will be
based on rebuilding timeframes for all the rebuilding species, not just for darkblotted,
that are consistent with the 9th Circuit decision.
11. In addition, at next week's meeting, NMFS and the Council plan to consider the issue of reducing the darkblotched optimum yield (OY) for 2006. This consideration will be based on the most current stock assessment, completed fall 2005, and other current relevant information.

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

Executed this 28 day of October, 2005.

D. Robert Lohn